

**Department of Environmental Conservation
Response to Comments**

For

**Multi-Sector General Permit
APDES Permit No. AKR060000**

**Public Noticed
November 27, 2019 – January 6, 2020**

February 20, 2020



**Alaska Department of Environmental Conservation
Wastewater Discharge Authorization Program
555 Cordova Street
Anchorage, AK 99501**

1 Introduction

1.1 Summary of Facility / Permit

The Multi-Sector General Permit (MSGP) requires industrial facilities to implement and maintain site-specific storm water control measures and to develop a site-specific storm water pollution prevention plan (SWPPP). The current MSGP regulates the discharge of storm water from an estimated 375 industrial facilities in 29 industrial sectors. These sectors include mineral mining, coal mining, sand and gravel mining, boat harbors, and larger airports.

The MSGP includes direction on the types of storm water control measures to install to limit the extent of storm water runoff. The permit includes inspection requirements during construction and active mining from mineral, coal or sand and gravel mines. For all sectors, there are monitoring and reporting requirements. There are no Mixing Zones proposed in this permit.

1.2 Opportunities for Public Participation

The Department of Environmental Conservation proposed to issue an Alaska Pollutant Discharge Elimination System (APDES) wastewater discharge general permit for Storm Water Discharges Associated with Industrial Activity. To ensure public, agency, and tribal notification and opportunities for participation the Department:

- identified the permit on the annual Permit Issuance Plan posted online at: <http://www.dec.state.ak.us/water/wwdp/index.htm>
- notified potentially affected tribes that the Department would be working on this permit via letter, fax and/or email
- posted a preliminary draft of the permit on-line for a 10-day applicant review *October 4, 2019 to October 17, 2019* and notified tribes and other agencies
- formally published public notice of the draft permit on *November 27, 2019 through January 6, 2020* in the *Anchorage Daily News* and posted the public notice on the Department's public notice web page
- posted the proposed final permit on-line for a 5-day applicant review
- sent email notifications via the APDES Program List Serve when the preliminary draft, draft, and proposed final permits were available for review

The Department received comments from five interested parties on the draft permit and supporting documents. The Department also requested comment from the Departments of Natural Resources (DNR) Fish and Game (DFG), the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency. The Department received comments from the U.S. Fish and Wildlife Service

This document summarizes the comments submitted and the justification for any action taken or not taken by DEC in response to the comments.

1.3 Final Permit

The final permit was adopted by the Department on *February 20, 2020*. There were changes from the public noticed permit. Significant changes are identified in the response to comments and reflected in the final fact sheet for the permit.

2 General Support and Opposition for the Permit

2.1 Comment Summary

DEC received comments of both general support and specific modifications to the permit.

Response:

DEC considered the suggested modifications to the permit as described below.

2.2 Comment Summary

DEC received several comments on grammar and typo's.

Response:

DEC noted these and made corrections.

3 Comments on the Permit Parts 1 to 10

3.1 Comment Summary

DEC received one comment on the inconsistency of the use of the terms applicant and permittee in a number of sections, including but not limited to Part 1.2.1 and 2.1, where the term is used incorrectly.

Response:

The term “applicant” refers to a facility or operator before they receive permit authorization from DEC. This means the applicant has developed a Storm Water Pollution Prevention Plan (SWPPP), submitted a Notice of Intent and paid a fee. Once they receive a permit authorization from DEC they are considered a “permittee.”

3.2 Comment Summary

DEC received one comment on the use of the term “project” in Part 4.5.1.

Response:

The term “project” was changed to “facility” to more clearly describe the entity covered by the permit.

3.3 Comment Summary

DEC received one comment on SWPPP availability Part 5.7. Specifically, the commenter wanted to insert language to allow for electronic storage of the SWPPP and all components (inspection records, training records, DMRs, and all additional documentation required by Part 5.8) where local infrastructure supports prompt access.

Response:

DEC added language to Part 5.7 to allow for the SWPPP and its supporting documentation to be stored electronically as long as the following conditions are met:

1. All permit required signatures must be signed by the appropriate official in accordance with Appendix A Part 1.12,
2. Modifications to the SWPPP must be documented with dated revision pages,
3. All supporting documents (required by Part 5.8) must meet permit requirements, and
4. The electronic SWPPP and all supporting documents must be available to a DEC or EPA inspector during a facility inspection.

3.4 Comment Summary

DEC received one comment on the practicality of attempting to capture runoff within the first 30 minutes of a storm described in Part 7.1.4. The commenter listed the reasons that sampling the first flush is not practical and it is unlikely to achieve the original intent of testing the highest levels of contaminants. They recommended sampling within the first 24 hours of a storm event will provide a representative sample.

Response:

DEC added the following language to Part 7.1.4: “For Parts 11G, 11H, and 11J facilities they are exempt from the 30 minute requirement. They must sample as soon as practical after a storm event. The SWPPP must contain a list of the monitoring locations and the order in which sample collection will occur.”

3.5 Comment Summary

DEC received one comment on Part 7.2.2.3 that states the permittee must submit a Noncompliance Notification Form no later than 30 days after receiving the lab results. This apparently conflicts with the submission timelines of the Schedule of Submissions table on page 12 and Part 9.3.

Response:

The commenter is correct on this conflict and DEC changed the language of Part 7.2.2.3 to “... no later than the 15th day of the following month after they have received their lab results,” to be consistent with the Schedule of Submissions and Part 9.3.

3.6 Comment Summary

DEC received one comment on the attempt at clarification regarding the DMR due date in scenarios with multiple sample dates in Part 9.1. The commenter suggested adding the word “all” before the phrase “the laboratory results” at the end of the second sentence of the second paragraph.

Response:

DEC agrees with the commenter and added the word “all” to the sentence.

3.7 Comment Summary

DEC received one comment on allowing permittees to generate their own alternative form for the Annual Report (Part 9.2) as long as the alternative form contains all the same information as the DEC supplied Annual Report Form provided in Appendix F.

Response:

DEC added language to Part 9.2 allowing permittees to generate their own alternative form for the Annual Report as long as it generally follows the same order and format and includes all of the information requested on the DEC supplied Annual Report in Appendix F.

4 Comments on the Permit Part 11

4.1 Comment Summary

DEC received one comment on Land Application in Subpart 11.G, 11.H, and 11.J. The commenter wanted the name changed to “Polymer Soil Stabilization,” and provided a definition for it.

Response:

DEC decided based on this comment, and similar comments received on the Preliminary Draft Permit, to delete Subpart 11.G.4.5, 11.H.4.5 and 11.J.4.5 in their entirety and replace it with a new Part. The new Part is adopted from the EPA Construction General Permit Part 2.2.13. New definitions were added to Appendix C for the key phrases treatment chemicals, tackifiers and soil stabilizers, polymers, and cationic treatment chemical.

4.2 Comment Summary

DEC received one comment on Application of Treatment Chemical in Subpart 11.G, 11.H, and 11.J. The commenter wanted the name changed to “Restrictions on the use of sediment Polymer Soil Stabilization,” and provided a list of restrictions.

Response:

See Response to 4.1.

4.3 Comment Summary

DEC received one comment on Subpart 11.L.9 and 11.L.10. Specifically, to clarify if a facility exceeds the Benchmark concentrations listed in Table 11.L.9-1 then the facility must sample based on Table 11.L.10-1.

Response:

DEC added the following language to clarify the requirement, “If the results of four quarters of benchmark monitoring exceeds the benchmark monitoring concentration specified in Table 11.L.9-1, then the permittee must take samples to monitor compliance with the concentrations specified in Table 11.L.10-1.”

5 Comments on the Fact Sheet

5.1 Comment Summary

DEC received one comment on Part 4.4.2 – Erosion and Sediment Controls – recommending the avoidance of the use of erosion and sediment control materials that use plastic. Prior to degradation plastic materials, especially mesh netting found in erosion control mats, can entangle wildlife, including amphibians, birds, small mammals, and fish.

Response:

DEC added language to Part 4.4.2 discussing the potential impacts of using plastic in erosion and sediment control materials.

5.2 Comment Summary

DEC received one comment on treatment chemicals in subparts 11.G, 11.H, and 11.J..

Response:

DEC made changes to the permit and changed the text in 4.11.1 to reflect this change.

5.3 Comment Summary

DEC received one comment on Part 7.1 providing alternative language for Part 7.1.

Response:

DEC accepted the alternative language, with minor changes.

6 Comments on the 5-day Proposed Final Permit

DEC posted the Proposed Final Permit for the 5-day review (February 5 to 11th) and received comments from two individuals. Many of the comments were of an editorial nature.

6.1 Comment Summary

DEC received one comment on Part 11.G.4.5.1 suggesting it be aligned with the EPA 2017 Construction General Permit Part 2.2.13.a. on treatment chemicals.

Response:

DEC reviewed the EPA language and decided to maintain the phrase, “where storm water is treated upstream.”

6.2 Comment Summary

DEC received one comment on Part 4.5.3 asking to please define when a PWS Operator must be notified.

Response:

DEC added language to Part 4.5.3 that the potential contamination must intersect the drinking water protection area to warrant immediate notification.