

Responsiveness Summary to Comments
Received Regarding Ohio EPA's Draft
Renewal NPDES General Permit for Storm Water
Associated with Industrial Activity (ORH000004)
Public Noticed December 30, 2005

Commenter: Inquired as to the level of oversight Ohio EPA exercises over industrial facilities, ability and protocol regarding site inspections, and whether runoff from salt piles is required to be permitted.

Response: Ohio EPA's industrial storm water general permit inspection program is mostly complaint-driven. Within the last year, Ohio EPA field staff scheduled approximately 100 inspections. Under State law, Ohio EPA has the ability to conduct inspections at reasonable times without prior notification. When conducting an inspection in response to a complaint, prior notification may not be provided. Otherwise, notification is generally given in order to ensure the appropriate facility personnel are available for questions.

The existence of a salt pile by itself does not automatically require industrial storm water general permit (IGP) coverage. The automatic permit requirement for IGP coverage is dependent upon the federal definition of storm water associated with industrial activity. Industries required to obtain a permit are required to address salt pile runoff. The director of Ohio EPA may designate some additional sources of contaminated runoff for NPDES permit coverage such as salt pile runoff.

Commenter: Questioned the difference between beneficial use designation (e.g., warmwater habitat, etc.) vs. antidegradation classification (e.g., superior high quality water, etc.).

Response: A beneficial use designation is the goal use of a waterbody (i.e., the level of aquatic life and recreation the waterbody will support if it is not polluted). A waterbody's antidegradation classification, or category as it is called in the rule, is a measure of how sensitive the waterbody is to degradation. The more sensitive waterbodies are categorized superior high quality waters or outstanding state waters. The IGP does not provide the possibility of permit coverage to new discharges to these more sensitive streams. Those dischargers will have to seek an individual NPDES permit and be evaluated for permitting through Ohio EPA's antidegradation process.

Commenter: Questioned whether a Concentrated Animal Feeding Operation (CAFO) is eligible for coverage under the IGP.

Response: No, they are not. CAFOs are regulated under separate NPDES permits other than the IGP.

Commenter: Notices of Intent (NOIs), general permit applications, and Storm Water Pollution Prevention Plans (SWP3s) should be submitted electronically so that they are more easily accessible by the public. Also, permit requirements should include more prescriptive BMPs, effluent limitations, and more monitoring.

Response: Ohio EPA is not currently able to accept electronic NOIs and SWP3s. Ohio EPA currently posts all facilities that have been granted general permit coverage on its website, and that information is updated monthly. Ohio EPA will obtain an entity's SWP3 for public review upon request. In the future, Ohio EPA would hope to post, at a minimum, the NOIs on its website. The commenter also indicated that Ohio EPA should require submission of all SWP3s. Currently, Ohio EPA does not have the ability to review or store SWP3s for the approximately 2,600 facilities that have IGP coverage. The permit does not contain specific BMPs because it is believed that the permittee can best understand its operations and how to address storm water contamination. Effluent limitations were not included, other than coal pile runoff, for two reasons:

1. Where technology (U.S. EPA) storm water limitations exist, an individual permit is required. Usually, there are process discharges addressed in those guidelines as well.
2. Deriving water quality-based limits is a task requiring site-specific information regarding a discharge and receiving stream. In addition, it is difficult to develop water quality-based effluent limits for storm water discharges because of their variability (frequency, intensity and duration).

Therefore, in both situations, Ohio EPA believes an individual permit would be appropriate when deemed necessary. The monitoring in the IGP is intended as a screening tool to provide feedback to the permittee as to how effective the SWP3 is and whether it needs revision.

Commenter: Expressed concern that applicants should be required to identify impaired receiving waters on its NOI and that more significant industrial facilities should have individual NPDES permits. Also, the commenter had a general concern regarding Ohio EPA's oversight of industrial storm water discharges.

Response: The NOI does require an applicant to identify receiving waters for its discharges. Whether an industry discharges to an impaired water or has a history of storm water issues, those factors are considered prior to granting general permit coverage. If deemed inappropriate for IGP coverage, the applicant must then pursue an individual or alternative general permit for its discharges. Also, if a water quality recommendation (as in a Total Maximum Daily Load (TMDL)) has specific recommendations for an industrial storm water discharge that can not be implemented through the IGP, then an alternative permitting action would be used.

Commenter: Requested that the permit provide downstream sewer system operators more authority over industrial storm water discharges to their systems.

Response: The permit was revised to indicate it only authorizes discharges to surface water of the state and not to other entity's sewer systems (permittees must contact those other entities to seek permission to discharge directly to those downstream systems). The permit was revised to require industrial permittees comply with NPDES-regulated municipal separate storm sewer system (MS4) storm water management programs (SWMPs) if notified by the operator of its existence. The commenter requested notification to combined sewer system operators as well, but those industries that discharge storm water directly into combined sewer systems are not eligible to obtain IGP coverage (because they are not regulated by the NPDES permit program) so that revision was not made to the IGP.

Commenter: Raised the following issues:

- a. Limiting facilities covered due to water quality impairment concerns;
- b. Not allowing landfills coverage under the IGP;
- c. Allow additional non-storm water sources coverage under the IGP;
- d. "Releases in Excess of Reportable Quantities;"
- e. Consistency of SWP3 with or incorporation into other plans;
- f. Monitoring requirements -
 - i. Individualizing requirements
 - ii. SIC 3357
 - iii. 0.1 inch precipitation event
- g. Conditional "No Exposure Exclusion" from permitting;
- h. Authorized non-storm water discharges.

Response: Ohio EPA's point-by-point responses:

- a. Ohio EPA believes the majority of facilities discharging storm water associated with industrial activity falling under the federal definition can be regulated by the IGP. Due to water quality concerns, some facilities will need to be addressed through individual or alternative general permits with more specific requirements. The IGP eligibility language was revised using language from Ohio EPA's small MS4 general permits which we believe provides flexibility for using the IGP under most circumstances.
- b. The use of general permits is discretionary by Ohio EPA's director. In the case of regulating landfill discharges, an individual permit has been determined to be more appropriate and has been Ohio EPA's practice prior to the inception of the federal storm water program. The inclusion of landfills in Ohio EPA's initial IGP was an oversight.
- c-d. Ohio EPA revised the IGP on these two issues to be consistent with the federal Multi-Section General Permit (MSGP) 2006 draft. These issues had been previously addressed in the MSGP 2000 permit; therefore, Ohio EPA does not believe the final 2006 MSGP will differ from the draft.
- e. Ohio EPA has revised the IGP to allow the incorporation of SWP3 requirements into an integrated document addressing multiple programs. The IGP does require that the integrated document identifies what sections are intended to comply with SWP3 requirements.
- f. General Response: Monitoring is only required once per year, there are waivers available for sampling of similar outfalls to minimize sampling, and the list of parameters to be monitored is not extensive.
 - i. The commenter suggested a procedure for approving individualized monitoring requirements for facilities. The commenter indicated that only a small number of facilities would most likely pursue this option; therefore, it would not be overly burdensome for the Agency to administer. Ohio EPA believes, given the suggested procedure, that individual permits would be more appropriate in these situations.

- ii. Monitoring for SIC 3351-3357 was revised to be consistent with the MSGP 2006 for metals.
- iii. The 0.1 inch rainfall event requirements remains in the MSGP 2006 and was not revised in Ohio EPA's IGP.
- g. The commenter raised some questions about the conditional "No Exposure Certification" from storm water permitting. These questions would be better directed toward U.S. EPA. Generally, Ohio EPA believes if one looks at the criteria as to what facilities need to be considered for industrial storm water permit coverage and then looks at the federal guidance on the no exposure topic, then the exemption criteria make sense and can be used. Ohio EPA acknowledges "no exposure" requests by a letter indicating how long the exemption is valid and under what circumstances and time frames a permit may need to be pursued.
- h. Commenter raised the issue of how Ohio EPA regulates non-storm water streams (such as building and pavement wash down, fire hydrant flushing, potable water, uncontaminated ground water, foundation drains, etc.) authorized by the IGP if the facility does not discharge industrial storm water. Currently, dischargers would have to apply for an individual permit. In response to this comment, Ohio EPA will consider developing a general permit to address these sources for facilities that have no other discharges.