

MARYLAND DEPARTMENT OF THE ENVIRONMENT

WATER MANAGEMENT ADMINISTRATION

1800 Washington Boulevard, Suite 455

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Response to Public Comments

Regarding

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

Discharge Permit Project No. 15MM

NPDES Permit No. MDG490000

Last Revised: March 30, 2017

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Introduction

The Maryland Department of the Environment (MDE), herein referred to as “Department”, has made a final determination to reissue the State/National Pollution Discharge Elimination System (NPDES) General Permit for Discharges from Stormwater Associated with Industrial Activities, Permit No. 15MM (NPDES No. MDG490000) to meet federal requirements and to protect water quality.

A public notice on the tentative determination to reissue the permit was published on July 18, 2016 in the Maryland Register and in twenty-two newspapers throughout the state of Maryland during the weeks of July 18th and July 25th, 2016. The Department held a public hearing concerning the tentative determination on Friday, September 9, 2016 at 1pm in the Terra Conference Room, located at 1800 Washington Blvd, Baltimore, MD 21230, and received comments on the draft permit through September 16, 2016. Over 20 people attended the public hearing and made comment on the tentative determination during the public hearing. Additionally written testimony was provided by over 10 industry and government entities and individuals. This Final Determination was published in the Maryland Register on March 31, and will be effective May 1, 2017.

A categorized summary of comments and the Department's responses are listed below. The comments received on the draft permit and the associated responses have in some cases resulted in changes to the final permit. The changes to Tentative Determination (TD) are noted in this response.

Should there be any conflicts between this Response Document and the Fact Sheet, this document should be considered primary.

Summary of Changes Due to Comments

The comments were organized into 82 groupings, with a response specific to each grouping. As a result, there were 82 responses with 47 confirmed changes. The following table provides a brief synopsis of each of these items. The detailed comments are found in a separate document , “*Categorized Public Comments Regarding General Permit for Discharges from Mineral Mines, Quarries, Borrow Pits and Concrete and Asphalt Plants*”, and the responses found later in the document with our rationale.

Response Number	Change Made?	Description
1	No	Cost analysis is provided. Complexity is addressed later, as are some of the factors that impact costs. However this specific analysis didn't lead to a specific change not covered elsewhere.
2	No	Cost analysis is provided. Complexity is addressed later, as are some of the factors that impact costs. However this specific analysis didn't lead to a specific change not covered elsewhere.

3	Yes	The concerns regarding permit complexity have been addressed by allowing operators to print versions of the permit specific to them, to reduce the number of pages most operators will need to deal with. In addition, our registration letter will be customized to include the numeric limits specific to the operator.
4	Yes	We are adding sector specific guidance documents on our website, which break down the requirements in an easily understood fashion.
5	Yes	Language in deadlines for transfer requests has been modified to be more consistent with the MSGP.
6	No	We describe why no change is required regarding planned changes.
7	No	We are required to verify liability insurance coverage when issuing coverage.
8	No	We describe why no change is required regarding installing and implementing controls prior to applying for coverage.
9	No	The obligation to pay annual fees does transfer to the new operator.
10	Yes	We did evaluate how other states provide permit document specific to industries, which we will also provide. This was also discussed under response 3.
11	No	We discuss why we are pursuing the federal MSGP approach.
12	No	The request was in support of our permit and a request to be notified when issued.
13	Yes	Definitions for Additive has been included in the permit.
14	No	The response addresses our authority to issue the permit.
15	No	The response addressed our authority to require BMPs.
16	Yes	We have removed a requirement to store certain materials on impervious surface consistent with the MSGP.
17	Yes	We have addressed a concern regarding basin depths consistent with the MSGP.
18	Yes	We have modified language on the type of analysis required prior to emptying secondary containment water.
19	Yes	Regarding sediment control, we have provided flexibility when a recent approved erosion and sediment control plan has been issued.
20	No	We describe why no change is required regarding minimizing of pollutants.
21	No	We describe why no change is required regarding training.
22	No	We describe why no change is required for waste, garbage and floatable debris.
23	Yes	We now allow separate site maps, instead of one comprehensive one.
24	No	We describe why no change is required regarding calibration or maintenance.
25	No	We describe why no change is required regarding frequency of sweeping.
26	No	We describe why no change is required regarding definition of construction SW.
27	Yes	We removed the construction BMPs from operations included in Sector L.
28	Yes	We now require an updated and approved erosion and sediment control plan in addition to coverage under the mining permit prior to discharging and have removed duplicative specific requirements for earth-disturbing activities conducted prior to active mining.
29	Yes	Time frames in Sector J were removed as described in response 28.
30	Yes	Maintenance in Sector J was removed as described in response 28.
31	Yes	Sediment trackout in Sector J was removed as described in response 28.
32	Yes	Stockpiles in Sector J were removed as described in response 28.
33	Yes	Sizing of stormwater controls in Sector J was removed as described in response 28.
34	Yes	Sediment basin requirements in Sector J were removed as described in response 28.
35	Yes	The jar test requirement for flocculants was removed.
36	Yes	Stabilization in Sector J was removed as described in response 28.
37	Yes	Buffer requirements in Sector J were removed as described in response 28.
38	Yes	Time frames for practices in Sector J were removed as described in response 28.

39	No	We explain why no change is required in basic conditions for monitoring or reporting.
40	Yes	Although the quarterly inspection form isn't removed, it will be optional for those printing the document.
41	Yes	For sample requirements in the first 30 minutes of a storm event, language from the MSGP has been added to provide flexibility provided in that permit.
42	Yes	The permit now provides some flexibility in sampling of snowmelt discharges. Guidance also provided for asphalt plants that don't operate during the winter.
43	No	We describe why the permit currently allows the inspections and assessments to be performed on the same dates.
44	Yes	Inspection requirements have been modified. Although we retain quarterly visual inspection during a storm event, the quarterly site assessment has been changed to twice a year to be consistent with the previous permit.
45	No	We didn't agree with the suggestion to adopt yearly benchmarks as the State of Tennessee does.
46	No	We do describe in detail why NetDMR will work.
47	Yes	We have removed the requirement for submitting specific reports electronically.
48	No	We provide the methods that small business who have no access to the internet can apply for a waiver.
49	No	We provide the background for the TSS limits in the permit , however these requirements have not changed from previous permits.
50	No	We continue the temperature limits from the previous permit.
51	No	We describe why water use reporting is required for process waters.
52	Yes	We have addressed pH limits uniformly throughout the permit at the end of pipe vs. in stream as we had in the previous permit.
53	Yes	We have addressed pH limits uniformly throughout the permit at the end of pipe vs. in stream as we had in the previous permit.
54	Yes	We have added a definition for concrete washout and one for vehicle wash water. We have also added a table for locations where only vehicle wash water is discharged.
55	Yes	The vehicle washing requirements were modified to remove some documentation requirements.
56	No	We explain that Oil & Grease limits do apply for any type of oil used as a release agent.
57	Yes	For mining locations, vehicle washing was modified to be consistent with those in response 55.
58	No	We explain that the MSGP also requires that EPA be notified once you have completed benchmark monitoring.
59	No	The response confirms that only facilities that crush concrete or asphalt would be considered a recycler and covered under Sector L. The stockpiling of these alone isn't considered under this permit.
60	Yes	We removed pH benchmarks for asphalt crushing operations.
61	No	We explain why TSS benchmarks are required.
62	Yes	We removed nitrogen benchmarks for sand and gravel operations.
63	Yes	We removed iron benchmarks for concrete plant operations.
64	No	We explain why we have authority to provide corrective action deadlines in the permit.
65	No	The request to use language from the 2015 MSGP for a specific section ignored that there were wider implications where other sections would have to be modified as well to support that change.

66	Yes	Flexibility for the deadline to notify the Department, unless the situation endangers human health or the environment.
67	Yes	Flexibility in documentation deadlines has been added to the permit.
68	No	We explain why we expect to get electronic copy of the permit when the operator applies.
69	Yes	We allow documentation to be maintained in an EMS system, instead of storing it with the SWPPP.
70	No	We describe what has changed in the permit requiring changes to the SWPPP, and why minimal changes should be required to be compliant with the new permit. We also explain why frequency of changes to the SWPPP should not be more frequent than in the past.
71	No	The suggestion for documenting where spills are likely to occur vs. where they have occurred in past. We left this consistent with the MSGP.
72	Yes	Records must be retained for 3 years, a reduction from 5 years in the draft.
73	Yes	Documents may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
74	Yes	Visual assessment rationale may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
75	Yes	Benchmark exceedance documentation may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
76	Yes	Rationale for not collecting samples within first 30 minutes may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
77	Yes	Records of when you fail to sample may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
78	Yes	History of spills may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
79	Yes	Training documentation may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
80	Yes	Vehicle wash documentation may be kept in an Environmental Management System (EMS) system instead of paper copy with the SWPPP.
81	No	We explain why certain documents are permit requirements, as this is meant to protect the facility.
82	No	We explain where the fact sheet and permit provided the class of dischargers covered by the permit.

Clarifications Initiated by the Department

As part of the final review process, we identified several prudent clarifications in addition to those addressed above. The rationale for their inclusion is self-explanatory. We (1) added clarifying language from the MSGP regarding considerations for run-on in Part V.B.3.c.iii; (2) added a definition for Corrective Action to Appendix E, consistent with the MSGP; (3) clarified conditions under which corrective action(s) are required in Part IV; (4) clarified how to calculate temperature difference for discharges into Use III or Use IV waters in Appendix D; (5) clarified that based on COMAR 26.10.01.12B, oil leaks must be visually examined monthly in Part III.B.1.b.iv; and (6) clarified that hydrodemolition discharges may be discharged on private lands, only if they have approval from the property owner.

Costs and Complexity

Comment 1. Costs That Will Result by Issuing the Permit

There is concern that the permit will result in increased costs, as compared with the existing 10MM permit. Specific estimates were provided for modifying the SWPPP and for increased monitoring costs.

Response 1. Costs That Will Result by Issuing the Permit

Both of these comments came from the same person in the mining industry. There were similar comments from non-mining facilities, which are addressed in the next response.

The costs from developing SWPPPs in accordance with the 15 MM; quarterly stormwater sampling; sampling and monitoring for iron and TSS; and benchmark sampling and monitoring is not significant, given that some requirements that were in the 10 MM have been reduced.

Costs due to SWPPP revisions

Because the prior permit (10MM) and the proposed permit (15 MM) rely heavily on the EPA SWPPP guide – which was developed in 2009 – revisions of an applicant’s SWPPP, there should be relatively few changes required to meet the 15MM SWPPP conditions, and thus the 15 MM should not result in significantly increased costs. More specifically, the 10MM required that *“The primary objective of the plan is to identify ongoing or potential sources of storm water pollution and to select Best Management Practices (BMPs) which will minimize pollutants in storm water runoff. The plan shall include the details and mechanisms used to meet the requirements listed below.*

A. Administrative

1. A guide for developing storm water management plans is available at http://www.epa.gov/npdes/pubs/industrial_swppp_guide.pdf. The plan shall be signed in accordance with Part III Section D of this permit, and be retained on site except as provided in Part V.A.5, below.” These provisions are continued in the 15 MM.

This same 2009 EPA SWPPP Guide has now been loaded to our Department’s website and made readily available to any operator wanting coverage.

http://mde.maryland.gov/programs/Permits/WaterManagementPermits/WaterDischargePermitApplication/ Documents/GDP%20Stormwater/EPA%20Industrial%20Stormwater%20Guidance/EPA_Industrial_SWPPP_guide.pdf We have also included the 2009 SWPPP template provided by EPA, which includes instructions for each component.

Our research supports the determination that significant increased costs will not likely result from the 15 MM. During our research we visited 4 facilities at the invitation of an industry association. These 2016 visits included:

April 18- Asphalt Plant (10MM9854) – Maryland Paving, 619 Batavia Farm Road, Rosedale, MD

April 18- Stone Quarry (10MM2956) – Vulcan Materials Havre de Grace Quarry, 938 Quarry Road, Havre de Grace, MD

April 20- Sand & Gravel Mine (10MM8011) – Aggregate Industries Gaslight/Robin Dale, 5601 Accokeek Road, Brandywine, MD 20613

April 20- Concrete Plant (10MM0772) – Aggregate Industries Bladensburg Ready Mix, 2800 52nd Avenue, Bladensburg, MD 20710

Prior to the visits, SWPPPs from these 4 facilities were reviewed and found to adequately meet most of the requirements of the 15MM. While the 15MM is not likely to require changes to the existing provisions of the SWPPP, changes to the SWPPP may be required to satisfy new requirements – benchmark sampling and use of the visual monitoring form. It wasn't obvious from the visits whether the sites would be able to meet the benchmarks, so there may be additional costs once the facility has evaluated the effectiveness of its installed controls for meeting the benchmarks. These changes, however, should not result in significantly higher costs, because, as explained below, the permit also reduces the frequency of monitoring.

By updating the SWPPP and electing coverage under the 15MM for vehicle washing or construction, the mining industry may reduce its burden and costs because coverage under the 15 MM obviates the need to obtain a construction permit and a vehicle washing individual or general permit. The visits uncovered practices that were not addressed in the 10MM. Regarding Construction BMPs, while the Vulcan Materials Havre de Grace Quarry had implemented some of the construction BMPs, the 10MM permit didn't address the requirements for the construction phase of the operation and therefore did not cover excavation. Therefore, for mining operations, during construction, construction BMPs and the construction permit were required and should have been in force. Regarding Vehicle Washing: I discovered that vehicle washing regularly occurs at a mine. The 10 MM, however, was not clear on how that activity was covered, and the 10 MM was subject to the interpretation that TSS, pH, Temperature difference requirements applied to vehicle washing outfalls. The 15 MM clarifies the requirements for vehicle washing outfalls by including a separate section for vehicle car washing. So for each operation that has vehicle washing and each operation that has new excavation, SWPPP may need to be updated if coverage under the 15 MM for these activities is desired. Because coverage for both activities (excavation and vehicle washing) is possible under this permit, a separate construction permit for excavation work will not be needed. In addition, we further clarify that vehicle washing is covered. Our intent with the 15MM was to 1) make it clear that these activities were covered, that including this coverage under the 15MM generates cost savings by reducing the number of permits required, and 2) make sure that the controls were understandable.

Stormwater Sampling Costs

A comparison of the stormwater sampling under the 10MM and stormwater sampling under the 15 MM shows that the 15 MM results in reduced sampling. Regarding additional testing, the 10MM had required monthly wet weather (stormwater) monitoring with limits for all outfalls for settleable solids. These sampling results had to be submitted either by paper DMR or via NetDMR to MDE. The 15MM relaxes the requirement and requires quarterly, not monthly, visual monitoring which includes settleable solids, but also includes color, clarity, oil sheen, floating solids, suspended solids and foam. These are not sent to a lab, and not reported to the Department, but the records are to be maintained onsite. They, however, may trigger some corrective action.

In addition to less sampling (quarterly vs monthly), under the 15MM, the permittee has the option of sampling fewer outfalls by category of substantially identical outfalls. If the applicant verifies that their outfalls meet the criteria for substantially identical outfalls, then, only the representative outfall is required to be sampled.

The 15MM provides many options to reduce operational costs associated with monitoring. While the 15MM requires wet weather Total Suspended Solids (TSS) benchmarks at outfalls that are currently subject to monthly sampling and reporting of settleable solids under the 10MM, this benchmark sampling may be discontinued after 4 quarters of sampling, if the benchmarks are being met. The 15MM also allows the applicant to apply for coverage and select certain outfalls as industrial stormwater only, since no dewatering is performed there. The focus on wet weather means that those stormwater only outfalls will not be subject to monthly dry weather limits and the required electronic reporting of dry weather Flow, pH, pH difference, TSS, temperature and temperature difference. With the number of outfalls at mines, the savings in monitoring should be substantial.

According to feedback from a commenter during our public hearing, the costs he estimated to update SWPPPs were based on new SWPPPs being created for permits in the State of Delaware. It assumed that new monitoring points must be established to comply with benchmark monitoring. Whereas the 10MM required monthly monitoring and reporting of settleable solids for all these outfalls, the 15MM requires quarterly monitoring and reporting for only one year, if the facility meets the benchmarks. Permittees may re-evaluate new monitoring points or outfalls, if they want to prove they qualify as substantially identical outfalls and if that would result in a cost reduction. Permittees should be able to update their SWPPP without a third party being involved, unless they see that a third party evaluation may result in providing a cost reduction for their operation. To summarize, the facilities should be able to update the SWPPPs on their own, and are not required to have a third party update them. If the operator believes their SWPPP doesn't meet the requirements of the 2009 SWPPP Guide -- the same guide which was required to be used under the previous 10 MM permit -- and therefore the 15MM permit, then the SWPPPs do need to be updated.

In short, the practices used in excavating new cells, which was not addressed in either the 10MM or the 2009 SWPPP guide, and practices used to wash vehicles, which was not authorized under the 10MM, are now available for coverage under the 15MM. The difference is the 15 MM takes into consideration approved erosion and sediment control plans.

Regarding the concerns on additional costs for monitoring or reporting results to MDE, we went through an example and used the cost estimates provided by the commenter. This evaluation showed a net reduction in the number of wet weather samples required under the 15MM for mining operations when compared to the number of samples required under the 10MM. If we use an example of a facility with 3 outfalls, that would be 3 outfalls sampled 12 times a year times 5 years of the permit, or $3 \times 12 \times 5 = 180$ samples to be reported to MDE. For the 15MM, even assuming the worst case that no outfall was substantially identical, that would be 3 outfalls sampled 4 times a year for 1 year, or $3 \times 4 \times 1 = 12$ samples to be reported to MDE. In addition, there will be visual monitoring for the duration of the permit quarterly, instead of the existing requirement for monthly. For the analysis, note that settleable solids have been measured for the 10MM without the use of a lab, whereas the 15MM requires Total Suspended

Solids (TSS) sampling protocols that can be done on site or by a lab which is an additional cost. In the analysis in the table below, we assume the worst case as provided by the commenter. If we add to this the visual monitoring, that would be 3 outfalls, sampled 4 times a year for 5 years, or $3 \times 4 \times 5 = 60$ samples taken and evaluated. If the operator wants to evaluate if these are substantially identical, the sampling can be reduced even further. The analysis in the tables below assumes the worst case. These results are provided in the following matrix.

Table 1 - Computing total number of wet weather samples for mining operation with 3 outfalls

Permit	# Outfalls	# Tests / Year	# Years	Total Tests
10MM	3	12	5	180
15MM Benchmark	3	4	1	12
15MM Visual	3	4	5	60
15MM Total				72

The 15MM results in fewer samples taken of stormwater. The 15MM results in fewer samples reported to MDE. This results in savings for the operator. The trade-off is that the tests do require a lab. If we use the same example of a facility with 3 outfalls, 12 samples require lab tests. This is 12 samples, at \$65 dollars at sand and gravel mines and \$30 at other mineral mines. From this table, the costs for wet weather sampling under the 10MM would be approximately \$3060, whereas the Sand and Gravel mine would be \$1800, and other mines \$1380. In each case the costs for wet weather testing are less with the 15MM than with the 10MM. The real offsetting factor is the labor required under the 10MM, which has the operator chasing storms monthly. This is summarized in the table below.

Table 2 - Comparing 10MM monitoring wet weather monitoring costs to 15MM for mining sector

Permit	# samples	Cost	Total
10MM Total	180	Operator labor at \$17/hour	\$3060
15MM – Benchmark Sand and Gravel	12	\$65	\$780
15MM – Visual	60	Operator labor at \$17/hour	\$1020
15MM Total			\$1800
15MM – Benchmark other Mines	12	\$30	\$360
15MM – Visual	60	Operator labor at \$17/hour	\$1020
15MM Total			\$1380

The other costs to consider under the new permit have to do with process water discharges. Although the sampling rate is the same under both permits, the ability to qualify certain outfalls as industrial stormwater only, must be considered when evaluating the the costs of the 10MM vs the 15MM. If the 15MM even reduced our simple example by one outfall, that would be 12 monthly samples of TSS, pH and Temperature over the duration of the permit. As both commenters noted, these costs are hard to

quantify. However, we believe they represent a real reduction. The reason the State considered the reductions in sampling and reporting is that this focuses attention and actions more effectively on potential pollution than the 10MM. The focus of the 15MM is the process water, because stormwater only outfalls are treated with verified BMPs.

From this analysis, we believe the permit will provide reductions in overall costs. The cost evaluation is different for the non-mining activities, which were not subject to monitoring of settleable solids, and is addressed by the next response.

Comment 2. Asphalt Industry Small Business Impact

The Maryland asphalt paving industry felt that their industry will be subject to onerous inspection, sampling, testing and reporting requirements and requested we evaluate those requirements vs the benefits.

Response 2. Asphalt Industry Small Business Impact

As mentioned in the previous comment, the impact of the 15MM, including any SWPPP modification is minimal, if industry had used the EPA SWPPP guide required by the 10MM. The 10MM required two comprehensive evaluations and no other monitoring for asphalt plants. The 15MM requires quarterly visual monitoring and benchmarking for the first year. The benchmark is further discussed later in this response document. The same is true of concrete plants, where the 10MM only focused on discharge of process water and the washout of cement trucks. The site visits provided by industry provided shining examples of an asphalt plant and concrete plant. The commenters ask that we perform an evaluation of the costs prior to issuing the permit. This response will focus on that evaluation, as did the previous comment for mining sites.

If we use the example of a plant with one (1) outfall, the 15MM will require that they monitor quarterly for benchmarks requiring lab tests and quarterly for visual monitoring. From the previous example, costs were provided for lab tests of TSS and Iron. These four (4) samples are at an estimated \$30 for asphalt plants and \$45 for a concrete plant. The labor to take the sample is already considered in the visual sample taken at the same sample point. The 10MM required two (2) comprehensive site visits annually for the duration of the 5 year duration of the permit, or $2 \times 5 = 10$ walk through. This is summarized in the table below.

Table 3 - Comparison of costs of 15MM vs 10MM regarding wet weather sampling at concrete/asphalt plants

Permit	# samples	Cost	Total
10MM Total	10	Operator labor at \$17/hour	\$170
15MM – Benchmark Asphalt Plants	4	\$30	\$120
15MM – Visual	20	Operator labor at \$17/hour	\$340
15MM Total 5 year			\$460

15MM – Benchmark Concrete Plant	4	\$45	\$180
15MM – Visual	20	Operator labor at \$17/hour	\$340
15MM Total 5 year			\$520

The difference in cost per facility is at most $\$520 - \$170 = \$350$ more, which is \$70 more per year over the term of the permit.

As pointed out in other comments in this document, the operations are typically not operating in the winter. We evaluated an option of 3 visual and benchmark monitoring samples per year.

Table 4 - Estimated cost of 3 visual and benchmark samples per year

Permit	# samples	Cost	Total
10MM Total	10	Operator labor at \$17/hour	\$170
15MM – Benchmark Asphalt Plants	3	\$30	\$90
15MM – Visual	15	Operator labor at \$17/hour	\$255
15MM Total 5 year			\$345
15MM – Benchmark Concrete Plant	3	\$45	\$135
15MM – Visual	15	Operator labor at \$17/hour	\$255
15MM Total 5 year			\$390

In this case, the difference in cost per facility is at most $\$520 - \$170 = \$220$ more, which is \$44 more per year over the term of the permit.

This estimated cost increase resulting from three visual and benchmark samples per year – approximately \$44 more per year over the term of the 15MM -- is not significant and is not only important in protecting water quality but also yields data and information that may assist the permittee in improving water pollution controls. Any corrective actions taken as a result of the monitoring are of substantial environmental benefit.

The benchmark requirements and comprehensive site visits for these facilities are further addressed later in this response document. Both of those discussions result in further reductions in monitoring, which would show further cost reductions than is represented in this analysis.

Comment 3. Complexity = Costs for Operator

The comments have a common theme of perceived increase in complexity of the permit and how that will result in costs to the operator when compared to the perceived simplicity and straight forward nature of 10-MM and other state permits (specifically Tennessee).

Response 3. Complexity = Costs for Operator

An increase in the number of pages of a permit doesn't necessarily relate to an increase in the costs. It also doesn't mean an increase in complexity. Much of what was referred to in the 10MM were external documents. The permit relied on industry using the EPA SWPPP guide and following regulations regarding sediment control. There were actually many activities at the facilities that were not addressed in the 10MM permit, calling into question if facilities understood the permit or its requirements. If small or large business had the time to track down each of EPA's SWPPP guidelines and sediment control regulations to verify requirements, they would discover a large number of documents that would need to be complied with. The 15MM attempts to clarify what is and isn't covered, and to list what is required to be in compliance with the permit.

There are new elements of the permit that address activities at facilities as well. Examples are the requirements for excavation at a permitted mine or for vehicle washing at a mining operation.

To break the 100 pages of the Tentative Determination down, we list the sections and pages below. The key facets of the new permit are 1) where it clarifies, 2) where it adds new coverage and 3) how much is due to incorporating the non-numeric control measures for stormwater. Table 5 compares the 15MM with the 10MM. The **gray highlighted cells** of table 5 indicate entirely new sections of the permit.

Table 5 - Comparison of 10MM to 15MM to highlight new features and complexity of existing requirements

Permit Section	Comparing 10MM vs 15MM	Comment
Index and Cover Pages	Added 8 pages.	Used to break up document and aid in finding items.
Eligible Discharges	Added 3 pages.	Addressing common questions.
Obtaining Coverage	Added 1 page.	Added No Exposure
Definitions	Added 5.5 pages.	Included terms from Federal Regulations for clarity.
Wet Weather Controls	Added 5 pages.	Added the required controls for coverage to the permit.
SWPPP Requirements	Added 2.5 pages.	Clarifies SWPPP documentation requirements. The 10MM relied on operator looking through 49 page SWPPP guide to find these.
Monitoring & Reporting	Added 7.5 pages.	10MM referred to the 49 page SWPPP guide for the operator for reporting and monitoring requirements. [New] Requirements included and added benchmark and visual monitoring.
Corrective Actions	Added 1.9 pages.	10MM included 24 hour notification and 5 day reporting for exceeding numeric limits. [New] The 15MM adds guidelines on how to address benchmark or visual monitoring triggering events, required for non-numeric controls.
Standard Terms	Eliminated 5 pages.	Several terms were redundant.
Natural Wood Waste	Added 2 pages.	New co-located activity included.
Asphalt Plants	Added 1 page.	Adds benchmarks, and ELG for emulsion facilities.
Composting	Added 1 page.	New co-located activity included.
Concrete Plants	Added 2 pages.	Adds benchmarks and vehicle wash.
Concrete / Asphalt crushing	Added 4 pages.	New - Common industrial activity needing SW coverage.
Hydrodemolition	Added 4 pages.	New - Allow for this practice of concrete roadwork.
Transportation	Added 3 pages.	New co-located activity included.
Metal Mining	Added 1 page.	[Reserved] No current metal mining activity in the state, so this has been left reserved.
Mining Activities	Added 3.5 pages.	Breaks single general limits table into specific tables.
Mining - Excavating	Added 9.5 pages.	New co-located activity included.
Mining - Vehicle Wash	Added 1 page.	New – Common activity requiring coverage.
Slag Excavation	Added 1 page.	New co-located activity included.
Sector AD	Added 1 page.	Allows for Department to designate site by site basis under this permit as appropriate.
SIC List	Added 3 pages.	New – Clarifies who is covered and per sector.
Visual Monitoring	Added 3 pages.	New Requirement.
Hardness Table	Added 3 pages.	New – Relates to Benchmarks

This chart highlights that there are a lot of new features in this permit. New features account for 56 pages of the permit. The new features include the required controls for stormwater associated with industrial activity, vehicle wash and excavation activities at mining sites, visual monitoring, benchmark monitoring, hardness considerations for metals in benchmarks, hydrodemolition, slag excavation, corrective action timelines, natural woodwaste, effluent limitation guidelines for asphalt emulsion facilities and concrete

pile runoff, composting operations, vehicle wash at concrete plant operations, concrete and asphalt crushing operations, and transportation activities. In addition, 12 pages account for clarifications including the most commonly asked questions on the 10MM, the eligible discharges, how to obtain coverage, no exposure certification, common definitions used in the permit, and SWPPP requirements. There are an additional 8 pages of indexes and cover pages to create separate appendices, including Appendix D, which includes 12 industrial sectors.

As reorganized, operations will be able to select and print sections of the permit that apply to their operation. This is the approach used by Tennessee (an example provided by a commenter), in neighboring Virginia, and by the EPA. To accomplish this less complex document, we will include the base permit in a standalone document, and then each appendix separate as well, and in addition break out Appendix D to each industry. This way an operator can print the pages applicable to his operation. The estimates here in Table 6 are approximated based on the Tentative Determination document.

Table 6 - Estimated number of pages per industry sector in planned Sector Specific permit options.

Industry Sector	Base Permit (# pages)	Appendix D (# pages)	Estimated Total Pages
Asphalt Plants	38	1	39
Concrete Plants	38	4	42
Mining Operations	38	9	47

We will also maintain a single document for those who want to have the entire document. We will also provide a detailed registration letter which will further break down what is required by the permit for the specific operator.

Comment 4. Permit Fact Sheet

There were comments that the Fact Sheet for this permit is far too long and complicated.

Response 4. Permit Fact Sheet

The permit fact sheet, the 90 page document referred to here, supports the permit. It covers many of the changes requested by industry and why we can or cannot accommodate these based on State regulations. The changes described include the changes requested in pH, subtracting nitrogen found in rain for benchmarks, moving away from a settleable solids limit and replacing that limit with the visual monitoring. It also describes the why regulators moved towards requiring non-numeric controls over numeric limits for stormwater associated with industrial activity. It describes our rationale for the permit and addresses many of the concerns of the commenters.

Commenters requested e guidance documents about the permit. So, in addition to the fact sheet, specific guidance documents will be on our website. These documents are specific to the industry. There is one for mining (Sector J), one for concrete plants (Sector E) and one for asphalt plants (Sector D). Also included are guidance sheets for the co-located industries for sites that want to include coverage under one registration. The guidance documents that are published by EPA also will be on our website. This EPA document will help in understanding the requirements of the permit.

Obtaining Coverage and Notifications

Comment 5. Obtaining Coverage and Notifications

Several commenters noted that the deadline of 30-days prior for permit transfers is not realistic or feasible in most circumstances, such as the acquisition/sale of a property. They claim that a deadline of 30 days *after* transfer of ownership would be a much more realistic deadline to comply with than 30 days *before* the transfer of ownership.

Response 5. Obtaining Coverage and Notifications

The basic requirements for a transfer are found in federal regulations: “40 CFR 122.61”. That regulation provides certainty for a smooth transfer of permit coverage if certain conditions exist.

The regulation lays out the requirements:

- “(1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
- (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- (3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under § 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.”

This transfer of ownership timeframe is not new in this permit, as acknowledged by the commenters, and is consistent with 40 CFR 122.61 and will be retained.

Another concern was that a permittee would not be covered for the period between the transfer deadline and the late submittal. This is consistent with the MSGP, “If you have missed the deadline to submit your NOI, any and all discharges from your industrial activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES permit. EPA may take enforcement action for any unpermitted discharges that occur between the commencement of discharging and discharge authorization.” Thus, the permit clarifies that if the operator is not able to process a change of ownership, the old owner is responsible and the new owner has no permit shield. If the secrecy of the merger or the speed of the merger or ownership change causes you to miss the deadline, you take the risk of not having coverage. There really is no way to provide coverage for a facility other than through signed transfer of ownership documents.

In addition, this deadline provides the Department enough time to process the change request. We will change the language in the deadline table to indicate “If you have missed the deadline to submit your NOI, any and all discharges from your industrial activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES permit. The Department may take enforcement action for any unpermitted discharges that occur between the commencement of discharging and discharge authorization.” Under this language, while failure to apply 30 days before the transfer is not a permit violation, it does place the owner on notice that he is exposed to some risk until the transfer of the permit is complete.

Comment 6. Planned Changes

One comment requested revision of language in Part II.F.1 to allow for ‘as soon as possible, but not more than 30 days’ of planned changes.

Response 6. Planned Changes

This section on planned changes has to do with changes in the discharge. If we made this change, there would be potentially 2 violations for the same event. For example, if we were notified within 31 days after a change had occurred, the following violations could be incurred: 1) not notifying the Department would be a violation and 2) not meeting the timeframe of 30 days.

In either case, the 10MM or the 15MM, the permit shield is not available for discharges where we are not notified, which is the motivating factor for the operator to notify the Department. This language does verify who is responsible and puts the operator on notice that they need to notify the Department.

No change required.

Comment 7. Workers Compensation

One commenter was concerned about why the State needs to verify the name of a facility’s workman compensation insurance company name and policy and claimed that the requirement exceeded the authority granted to the Department for regulating wastewater discharges.

Response 7. Workers Compensation

This requirement and is based on Section 1-202 of the Environment Article, which states that no permit or license may be issued in the state of Maryland without this proof. It is due to this requirement that we are required to ask for this information at the time the operator is applying for coverage.

Comment 8. How to Obtain Coverage

A concern was raised about Part II. A, requiring control measures to be designed, installed and implemented prior to applying.

Response 8. How to Obtain Coverage

If a facility is operating without appropriate controls, spills and other releases could be occurring on the site in an uncontrolled manner and accumulating onsite until such time that a storm event or other discharge event occurs. Placing controls on the site after the fact, but prior to final outfall release, will have little or no value in preventing pollutants from exposure to stormwater and emitted to surface or ground waters.

We did change the requirement slightly, to indicate the measures have to be in place prior to discharging.

Comment 9. Unpaid Fees

A concern was raised if MDE had the authority, as required in A. 2. d., to make a new owner pay for unpaid fees by a previous owner?

Response 9. Unpaid Fees

A transfer may not be completed until the old and new owners have settled liabilities prior to the transfer (see 40 CFR122.61). "The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and **liability** between them;"

Since this is a transfer of ownership, the transfer should take unpaid obligations into account. The fee this applies to are the annual fees that are invoiced each year. The permit makes it clear, that if the previous owner had not paid the annual fee, the obligation would transfer to the new owner to pay that fee. If there are fees that are left unpaid for extended periods, the permit coverage for the previous owner's coverage would potentially have been terminated for non payment of fees.

MSGP Approach

Comment 10. Other State Approaches

One commenter was concerned with the approach of using the EPA MSGP, while other states did not or had more streamlined approaches.

Response 10. Other State Approaches

Many states use the EPA MSGP. In the table below, we have compared the 15MM permit to permits issued by surrounding states, as well as in other areas of the country.

Table 7 - Comparison of 15MM to other states approaches.

State	MSGP?	# Pages	Fee	Link or Explanation
Delaware	Yes, modified	55	\$200 x 5 = \$1000	http://www.dnrec.delaware.gov/wr/Information/SWDInfo/Pages/SWDSStormWater.aspx
Virginia (Includes Asphalt)	Yes, modified	145	\$500	http://law.lis.virginia.gov/admincode/title9/agency25/chapter151
Virginia (Non-metallic mineral mine)	Written into regulations in 1990s, adapted from MSGP.	31	\$600	http://law.lis.virginia.gov/admincode/title9/agency25/chapter190/section70/
Virginia (Concrete Plant)	Hybrid, with benchmarks and process water.	37	\$600	http://law.lis.virginia.gov/admincode/title9/agency25/chapter193
DC	Yes	376	\$0	THE MSGP
Maryland	Yes, modified	78	\$110 - \$2875 per year	
Pennsylvania (Concrete and Asphalt)	Yes, modified	71	\$500 per year.	http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-13064
Pennsylvania General Mining SW Only	No	13	?	http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-12868

(GP104)				
Pennsylvania Mining with process water.	No	?		Individual permit combined with mining permit.
Tennessee (includes mining and asphalt plants)	Yes, modified	41 + 33 Industry specific appendix.	Annual fee \$0 for small sites to \$970 for large sites.	https://tn.gov/environment/article/permit-water-storm-water-multi-sector-general-permit-industrial-activities
Tennessee Concrete Plants	Yes, modified	41	Annual fee \$350 + \$250 plan review	https://www.tn.gov/environment/article/permit-water-ready-mixed-concrete-npdes-general-permit

When comparing the state approaches, Maryland was the only state that had not applied benchmarks or visual monitoring. Most states use the MSGP as their basis, which includes benchmarks and visual monitoring. Many states use sections from the MSGP verbatim, whereas Maryland is making some adaptations to include process waters that were not included in the MSGP permit. The number of pages in mining permits that include process waters range as follows: 31 pages (Virginia), 53 (Tennessee), 55 (Delaware) and 376 (DC). Asphalt and concrete plants tend to follow the MSGP approach.

The permit is in line with other states. Our equivalent mining permit would be 48 pages, and the Asphalt and Concrete Plants would be 40 and 43 pages.

Table 8 - Addressing concerns regarding complexity will reduce the thickness comparable to other states.

Maryland – Asphalt Plants	Yes, modified and with only Sector D.	39	\$110 - \$2875 per year	Approach discussed as response to concern “Complexity = Costs for Operator”
Maryland – Concrete Plants	Yes, modified and with only Sector E.	42	\$110 - \$2875 per year	Approach discussed as response to concern “Complexity = Costs for Operator”
Maryland – Mineral Mine	Yes, modified and with only Sector J.	47	\$110 - \$2875 per year	Approach discussed as response to concern “Complexity = Costs for Operator”

Comment 11. MSGP Approach

Several commenters were questioning use of the EPA MSGP approach.

Response 11. MSGP Approach

The common theme with this comment is that there is little reason to go with the MSGP approach to sampling and testing of stormwater discharges, and a belief that avoiding that approach will avoid Discharge Monitoring Reports (DMRs). The wet weather monitoring required under the 15MM is less than that required under the 10MM. The 10MM approach contained *monthly* wet weather reporting, whereas the 15MM required *quarterly* benchmarks and visual monitoring. Further, the Benchmarks can

be eliminated after 4 successful quarters. In contrast, the 10MM required monthly reporting for the entire permit term.

This permit must comply with Title 9 of the Environment Article, Maryland Code Ann., Envir. 9-322 to 342. The legislative purpose of Maryland's program is to "prevent, abate and control pollution of the waters of this State." Section 9-322 of that subtitle strictly prohibits the "discharge of any pollutant into the water of this State" except in compliance with a permit. Section 9-324 authorizes the Department to issue a permit only if the Department finds that the discharge meets "all applicable State and federal water quality standards and effluent limitations".

The Clean Water Act requires industrial Stormwater to comply with Water Quality Standards. This permit followed a proven approach that is used across the country. The MSGP approach is to require non-numeric limits based on Best Available Technology. This means a permit that prescribes BMP based non-numeric limits rather than specific numeric limits.

No change required.

Comment 12. Support of Proposed Permit Approach

The commenter was supportive of the permit approach but wanted to make sure that all stakeholders would be notified when the permit was issued, or if any changes were made.

Response 12. Support of Proposed Permit Approach

This is the Departments role, to keep the public informed about the status as it goes through final approval.

Additives and AdMixtures

Comment 13. Additives and AdMixtures

Several commenters requested we clarify what an additive is vs what an Admixture is, since the definition is important when considering implementing the permit at a facility. Some even suggested definitions we could use.

Response 13. Additives and AdMixtures

This is a worthwhile clarification for the permit, as it will reduce the paperwork and potential compliance issues. We have added the definition of "Additive" to Appendix E: Additive = "Waste water treatment chemicals or products added to water prior to discharge, such as flocculants at a sand and gravel facility. Additives are added to the water so that the discharge water is in compliance with the permit limits." References to chemical additives in this permit do not include additives used in any industrial processes unless the chemicals are contained in any process water discharge. Other potential pollutants, such as admixtures, must be considered in a facility stormwater pollution prevention plan, however, and are not

subject to any preapproval or notification to the Department. An operator must identify and evaluate those as part of his SWPPP.

Non-numeric Effluents BMPs based on Best Available Technology (BAT)

Requirements for All Industry Sectors

Comment 14. Legal Authority to Regulate Stormwater with Best Available Technology (BAT)

The commenter stated that Industry is not Subject to the Provision in the Federal Act which Authorizes MS4s to Impose Land based Controls for Regulating MSP Stormwater Discharges.

Response 14. Legal Authority to Regulate Stormwater with Best Available Technology (BAT)

We agree that under 33 USC1342(p)(iii)(A), industrial stormwater is required to meet water quality standards and that under 33 USC 1342(p)(iii)(B), municipal stormwater is required to implement controls to the maximum extent practicable.

Comment 15. MS4 Authority vs Industrial Stormwater

The commenter stated that the Reliance on the MS4 Authority Results in the Draft Permit Part III. B.2 Listing Management Practices Which Are Not and Cannot be Effluent Limitations, and therefore should only be required in the SWPPP.

Response 15. MS4 Authority vs Industrial Stormwater

MDE is not relying on MS4 authority, rather MDE is relying on State water pollution control laws in title 9, subtitle 3 and the Clean Water Act at 33 USCA 1342(p)(iii)(A). The Clean Water Act requires industrial facilities to be covered by an industrial stormwater permit. See 33USCA 1342(p)(iii)(A). The permit limit approach, including pollution prevention and best management practices and other nonnumeric limitations, is entirely consistent with the federal act. For example, the reissuance of the EPA general permit for stormwater associated with industrial activity included pollution prevention controls and best management practices.

Comment 16. Storing Material on Impervious Surfaces

There was a concern about Part III. B. 1. b. i requirement about solid chemical products, chemical solutions, paints, oils, solvents, acids, caustic solutions and waste materials under cover on an impervious surface. The commenter claimed that this provision is more prescriptive than the USEPA MSGP15 and should be removed.

Response 16. Storing Material on Impervious Surfaces

This was an addition to the permit when we combined our state permit (02SW) with the MSGP, to create the 12SW. It is already addressed in other ways in the permit, and we agree it may be removed.

Comment 17. Basin Depth

There was a concern about Part III.B.1.B.iii, a requirement to record the design depth of the basin.

Response 17. Basin Depth

The 15MM Part III.B.1.b.iii reference to keeping catch basin cleaning records has been removed and the language replaced by the 2015 MSGP language “Cleaning catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keeping the debris surface at least six inches below the lowest outlet pipe.”

Comment 18. Secondary Containment

There were concerns about Part III.B.1.b.iv, bullet point 3, regarding discharges from secondary containments, the requirement that a “sample is taken” should be replaced with a “visual observation”.

Response 18. Secondary Containment

This is a good catch. The language has been changed to reflect a visual observation instead of a “sample”, which has other implications.

Comment 19. Sediment Control

There were concerns about Part III, B.1.b.v, requesting that the time limits for stabilization should be removed and insert language that states as per the guidelines of the approved sediment and erosion control plan.

Response 19. Sediment Control

The language will be modified to allow for either: a) consistent with the facilities approved erosion and sediment control plan if one exists or b) [as written]. This will allow for site to follow that plan and be compliant, or if they don't have an approved plan, know what is required for sediment control. We believe that only mines will have erosion and sediment control plans, whereas concrete plants, asphalt plants and the other activities covered by the permit would follow the controls listed.

Comment 20. Minimizing Pollutant Considerations

There was a concern about Part III B. 1. b. vi, which states that “you must” divert, infiltrate, reuse, contain, or otherwise reduce storm water runoff. The concern is that the measures are not appropriate for all sites and the word “must” should be removed.

Response 20. Minimizing Pollutant Considerations

The language is consistent with the MSGP and is qualified ‘to minimize pollutants in your discharge’. This is a basic tenet of the permit, that the operator needs to consider how to minimize pollutants in the discharge. No change required.

Comment 21. Training

There were concerns about Part III B. 1. b. ix which states the “all employees...” should be trained. This language should be modified to allow exceptions for roles which are not responsible for permit compliance/storm water management (ex. administrative/office roles).

Response 21. Training

This training condition applies to all employees who work in a certain area “or who are responsible for implementing activities necessary to meet the conditions of this permit”. This is consistent with the MSGP and our 12SW. This acknowledges that the operator will make the determination of who is trained, but it will be either all employees in a specific area or “those who have the responsibility to implement”. No change required.

Comment 22. Waste, Garbage and Floatable Debris

There was a concern about Part III.B.1.B.xi, requesting we remove Waste, Garbage and Floatable Debris section since it wasn’t found in the MSGP.

Response 22. Waste, Garbage and Floatable Debris

This condition was in the 2008 MSGP, the 10MM (and 12SW), but tucked under Good Housekeeping (2.1.2.2) in the 2015 MSGP. Although this may be minimal in operations such as a concrete plant, or even a mining operation, it is an important consideration for the transportation facilities, natural wood waste or other secondary activities, which do generate waste, garbage and floatable debris. We will keep it as is, no change required.

Comment 23. Significant Spills

There was a concern about Part III.B.2.C.viii, which requires locations where significant spills or leaks identified under Part III. C. 3. have occurred be included in the map, which makes the map more complicated. The suggestion was that if the significant spills are listed on a separate page outside of the map, then you can give more detail.

Response 23. Significant Spills

This is acceptable. We will change the heading from “c. Site map. Provide a map showing:” to “c. Site map(s). Provide a map (or alternatively several overlay maps) showing:”

Comment 24. Calibration and Maintenance of Instrumentation

There was a concern about Part III.B.5.B.iii, which requires “Schedules and procedures for periodic calibration and maintenance of any monitoring and analytical instrumentation to insure accuracy of measurements;” which they thought was about overseeing a lab, and they couldn’t find in the MSGP.

Response 24. Calibration and Maintenance of Instrumentation

This requirement is in the MSGP (Standard Terms and Conditions B.10.B). This isn't related to overseeing a lab, but requires that if you have pH measurements or temperature measurements, for example, you must maintain the equipment that takes the sample. If not maintained, you will not have accurate results (if you get any at all) to report. No change made.

Requirements for Concrete Plant (Sector E)

Comment 25. Frequency of Sweeping / Vacuuming

There was a concern about Sector E.2.1, Additional Technology Based Effluent Limits, where sweeping vacuuming, or other equivalent measures must be performed at least once a week. There was a suggestion that better language would be "but it should be performed as frequently as necessary in areas".

Response 25. Frequency of Sweeping / Vacuuming

The language already provides the flexibility. The sentence starts out "Determine the frequency based on the amount of industrial activity occurring in the area and the frequency of precipitation". The last part of the sentence though provides the clarification that it must be "at least weekly in areas where cement, aggregate, kiln dust, fly ash or settled dust are being handled or processed and may be discharged in stormwater". The expectation in areas where there can be a discharge of these potential pollutants, is that the operator address those weekly. If there is no activity, no material being handled, no potential for discharges to stormwater, then this rate would not apply, but would be based on the operator's own determination. No change.

Comment 26. Construction Related Permit Issues

The concern has to do with the definition of stormwater discharges associated with construction activity, as defined in Appendix E, disturbing one acre or more, or that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more, are not eligible for coverage under this permit, unless in conjunction with mining activities as specified in Sector J, or unless for a portable batch plant located at the construction site as defined in Sectors D or E;

The language in the draft permit seems to allow for the 10/15MM at either asphalt (Sector D) or Concrete (Sector E) portable plants. These two parts of the draft permit seem to be in contradiction.

Response 26. Construction Related Permit Issues

This comment gets to a clear difference between the EPA construction general permit (CGP) and how it addresses certain construction activities onsite. The CGP does cover portable concrete plants as a related construction process. Maryland breaks out one specific activity and requires that portable plants apply for an additional permit, this MM general permit, for that specific portable plant activity. We cannot address any changes to the construction permit during this issuance. There are however also differences. That said, the definition includes concrete truck washout, which is an activity covered by the construction general permit in Maryland. The BMPs required are provided in the 2011 Standards and Specifications for Soil Erosion and Sediment Control, section H. The practice under that permit promotes proper disposal of waste concrete and wash water by containing it onsite, and is thereby, preventing

contamination of waterways, groundwater, and storm drains, when concrete equipment is cleaned onsite. For portable batch plants which may include concrete washout, the 15MM addresses it by allowing for the washout as a process water which may discharge when meeting specific numeric limits. At this time no change required for the definition.

Requirements for Concrete / Asphalt Recycling (Sector L)

Comment 27. Sediment Control Measures

There was a concern about Sector L Section L.5.4 “Remove sediment before it accumulates to one-half of the above-ground height of any perimeter control.” There was also a concern about Sector L Section L.5.5 “Remove sediment that is tracked out onto paved roads by the end of the work day.” Neither of these are a requirement in the 2015 EPA MSGP under Sector 8L.

Response 27. Sediment Control Measures

As noted, sediment perimeter controls and sediment track out are only addressed in the MSGP for specific industrial sectors. The language that the commenter is concerned about is part of Section L.5.4 through L.5.9, which originated from the EPA construction general permit (CGP). When we incorporated certain construction general permit language to the mining sector, it was also incorporated into this sector. As noted in other concerns in this document, the mining industry requested that we remove much of the CGP language from the mining Sector J, since those sites are already subject to a permit issued by MDE requiring an approved erosion and sediment control plan. That erosion and sediment control plan required certain controls that were redundant with this permit.

We had added the CGP language to this Sector since it was our desire to eliminate any question that this permit, and not MDE Construction Stormwater Permit, provides coverage at concrete and asphalt crushing operations. These types of operations are not required to have an associated MDE permit for solid waste, because the material generated is considered clean, according to COMAR 26.04.07.04.C(5). We will remove the language here also since it deals specifically with controls for sites undergoing construction or excavation and not representative of an ongoing industrial activity, however should visual or benchmark monitoring identify sediments in the stormwater, corrective action is necessary to address these sediments.

Requirements for Mining Sites (Sector J)

Comment 28. Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities

There were comments about Appendix D, Sector J.4 which is alleged to contain conditions that are redundant with existing regulations or separate permits, such as Surface Mining Permits, Air Quality Permits to Operate, and Erosion & Sediment Control Plans approved by the appropriate county Soil Conservation District. Specifically, sections J.4.1.3, J.4.1.4, J.4.1.6, J.4.1.7, J.4.1.9, J.4.2.2, J.4.2.3, J.4.2.5, J.4.2.6, J.4.2.7, J.4.2.8, and J.4.2.11 – J.4.4.5.

Response 28. Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities

We need to address earth-disturbing activity in the permit, or require an additional construction general permit. The mining industry had lobbied the EPA to include this clearly in the MSGP, to reduce having multiple permits for stormwater, which is our intent as well. We do get people applying for both permits just to be safe, and we prefer that the activity be included in this permit.

One of the comments was that mines are already required to have an erosion & sediment control plan. However, an Erosion & Sediment Control Plan isn't a permit. It is a basic tenet of the construction general permit, and in Maryland an Erosion & Sediment Control Plan is required under the Mining Permit. Reducing the permit requirements in consideration that these controls are already required by another MDE issued permit is appropriate. Therefore "J.4 Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities" will be modified to state "You cannot begin discharging until you have been issued a mining permit and an updated erosion & sediment control plan." We will move the flocculants use requirements into the main body of the permit, retain those practices from an active mining operation such as sand and gravel mines and apply them to any operator needing to treat water in this way.

Comment 29. Time Frames for Controls

There was a concern about Sector J section J.4.1.2 "Whenever you determine that a stormwater control needs maintenance to continue operating effectively, initiate efforts to fix the problem immediately after its discovery, and complete such work by the end of the next work day." "When a stormwater control must be replaced or significantly repaired, complete the work within 7 days, unless infeasible. If 7 days is feasible, you must complete the installation or repair as soon [as] practicable," both of which is claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 29. Time Frames for Controls

As described in the previous response, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 30. Maintenance of Controls

There was a concern about Sector J section J.4.1.3. "Remove sediment before it accumulates to one-half of the above-ground height of any perimeter control." which is claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 30. Maintenance of Controls

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 31. Sediment Trackout

There was a concern about Sector J section J.4.1.4. “Remove sediment that is tracked out onto paved roads by end of the work day.” which is claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 31. Sediment Trackout

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 32.Stockpiles

There was a concern about Sector J.4.1.5, Soil or sediment stockpiles, Page 15 of 41, Appendix D, with specific language on how to maintain stockpiles.

Response 32. Stockpiles

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 33.Sizing of Stormwater Controls

There was a concern about Sector J section J.4.1.5. “Provide storage for either (1) the 2-year, 24-hour storm, or (2) 3,600 cubic feet per acre drained.” which is claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 33. Sizing of Stormwater Controls

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 34.Sediment Basins

There was a concern about Sector J.4.1.6, Sediment basins, Page 16 of 41 Appendix D, which is claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 34. Sediment Basins

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 35.Jar Test

There was a concern about Sector J section J.4.1.8 “Selection should include performing a “jar test” of different chemicals with a sample of the soils from the facility to determine which one optimally settles sediment. If uncertain, request that the chemical distributor assist with the analysis.

Response 35. Jar Test

This is a best management practice recommended by many of the suppliers. Based on this suggestion, the section was re-evaluated and changed. We moved chemical additives for sediment and erosion

control to the conditions in the first 32 pages of the permit, rather than in Appendix D. In this way it can apply to any industrial sector, instead of just the Mining Sector. We also removed the jar test to be consistent with the MSGP. The MSGP statement will be incorporated as well: “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 SWPPP.”

Comment 36. Stabilization After Earth-disturbing Activities

There was a concern about Sector J section J.4.1.9 “...7 days after such [stabilization] activities...7 days after earth – disturbing activities...” and Sector J.4.2.2 Erosion and sediment control design requirements, Page 18 of 41, Appendix D, Sector J.4.2.5, Sediment Basins, Page 19 of 41, Appendix D, Sector J.4.2.7, Steep slopes, Page 19 of 41 , Appendix D, Sector J.4.2.8, soil compaction, page 19 of 41, Appendix D, Sector J.4.2.11, site stabilization, Page 21 of 41, Appendix D, through Sector J.4.4.5, Page 23 of 41, Appendix D. Those conditions are claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 36. Stabilization After Earth-disturbing Activities

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 37. Buffer Requirements

There was a concern about Sector J section J.4.2.3 “...50 foot buffers...” which are claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 37. Buffer Requirements

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Comment 38. 7 vs 14 days

There was a concern about Sector J section J.4.2.11 “...7 days...” which are claimed to be redundant with the approved Sediment and Erosion Control Plans that have been issued by the County.

Response 38. 7 vs 14 days

As described in the previous responses, section J.4 is being replaced by a condition requiring a mining permit prior to discharge to ensure a sediment and erosion control plan will be in place.

Inspections and Visual Monitoring

Comment 39. General Issue Regarding Inspection, Monitoring and Reporting

There was a concern about whether Part V was actually needed.

Response 39. General Issue Regarding Inspection, Monitoring and Reporting

There are regulatory requirements pertaining to what must be included in a permit. 40 CFR 122.41 requires monitoring and reporting, including certain documentation, be included in all permits. This Part “PART V. INSPECTIONS, MONITORING, AND REPORTING” provides the required inspection, monitoring and reporting requirements of the permit. This does apply to all those whose NOI is accepted. Without a consistent requirement, it is unclear how operators would consistently perform monitoring or reporting. Some states have included at least portions of these requirements into state regulations.

Comment 40. Quarterly Inspection Form

There was a suggestion to exclude the inspection form to reduce the permit by 3 pages.

Response 40. Quarterly Inspection Form

We have been including the form as part of the permit as an appendix. This form has proven to be helpful.

Comment 41. Sampling Timeframe Within 30 Minutes of Storm Event

There was a concern about the time frame to collect stormwater samples and a suggestion to use language from the newer MSGP permit to provide more flexibility.

Response 41. Sampling Timeframe Within 30 Minutes of Storm Event

We will add the language as provided in the MSGP: “If it is not possible to collect the sample within the first 30 minutes of discharge, the sample must be collected as soon as practicable after the first 30 minutes and you must document why it was not possible to take the sample within the first 30 minutes.” The timeframe is important because stormwater controls are meant to address that first flush of stormwater, as this is when you capture the pollutants being flushed from your site. Another option you can consider is to use automatic samplers to collect samples, or position personnel when precipitation is anticipated. Taking wet weather samples is not new to this permit, so the methods used previously are still valid.

Comment 42. Snowmelt Sampling

Several comments were received about snowmelt, including whether documentation is required or whether the asphalt industry would be relieved from this since they don’t operate during the winter months.

Response 42. Snowmelt Sampling

We agree to the request to change “must capture snowmelt discharge” to “shall attempt, if possible, to capture snowmelt discharge”.

We disagree with the comment that any documentation of the date, rainfall duration, amount and days since previous rainfall is unnecessary. This documentation will help the operator in the future understand how effective the controls are, and this will protect the operator when an inspector is involved.

For asphalt plants that are not in operation during the winter, we will allow them to report “conditional monitoring – not required this period”. In the permit Appendix D benchmark and visual reporting, we have added language for asphalt plants to specify that they may use the reporting code “NODI-9” and file a visual monitoring report with notes why the sample wasn’t taken for one quarter during that winter reporting period if they are shut down.

Comment 43. Inspection Requirements

There was a suggestion that the quarterly visual assessment of stormwater could qualify as a quarterly inspection.

Response 43. Inspection Requirements

The permit currently allows for this. “At least quarterly, you must conduct a site assessment that will review the effectiveness of the SWPPP. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is happening.” This means that a visual inspection and quarterly visual can be performed during the same visit. However, the annual compliance evaluation requires a certification that the site is in compliance with the SWPPP and this permit, or a record of the deficiencies and necessary follow up actions.” Whereas the quarterly visual uses the monitoring form based on the 8 characteristics of the water sampled. The permit does state “the annual compliance evaluation may be used as one of the two routine facility inspections.” No change required.

Comment 44. Checklist for Facility Inspection

There was a concern that Part V .A. 1, Routine Facility Inspection, “The checklist must include a certification that the site is in compliance with the SWPPP and this permit” requires some in depth analysis of site characteristics and should be made part of the next section of the permit (Part V. A.2.) for annual evaluation.

Response 44. Checklist for Facility Inspection

The requirement for sampling of wet weather events and periodic comprehensive site evaluations is not new, and was in the 10MM. However this permit does change how it is done.

To address the confusion around quarterly routine facility inspections and the annual comprehensive site evaluation, we will reduce the routine facility inspection to twice a year, the same as the 10MM. In addition, one of these routine facility inspections may be done at the same time as the annual comprehensive site evaluation. The quarterly visual sampling will be retained – this quarterly sampling is a reduction from the monthly settleable solids sampling required by the 10MM. This change will address the concerns and confusion regarding the changes in the 15MM, while still retaining effective evaluation of the facility’s stormwater discharges.

Comment 45. Tennessee has Less Reporting Requirements

There was a comment that other states such as Tennessee only require annual sampling instead of quarterly as in the 15MM, which is viewed as burdensome documentation and therefore a concern of industry.

Response 45. Tennessee has Less Reporting Requirements

The 10MM required monthly wet weather sampling, the 15MM quarterly visual monitoring and benchmarks, and Tennessee required annual benchmarks. Although we believe a reduced schedule is acceptable, a yearly sample doesn't consider seasonal variations. Tennessee certainly has seasonal variations, so it isn't clear how they justify this. We believe quarterly is effective, while not as onerous as the 10MM frequency.

Numeric Criteria and Electronic Reporting

Electronic Reporting

Comment 46. NetDMR Electronic Reporting – How Well Will it Work?

There were several concerns about NetDMR and how well it works, since this is the first time many of the permittees will be using the system.

Response 46. NetDMR Electronic Reporting – How Well Will it Work?

The implementation of NetDMR in the 15MM is not elective on the part of the Department. We are simply implementing a new federally promulgated requirement. The final NPDES Electronic Reporting Rule was published in the Federal Register on September 24, 2015. This final rule requires that all NPDES regulated entities electronically submit Discharge Monitoring Reports (DMRs) instead of using paper reports without changing or increasing the amount of information required for submissions under existing regulations. The issuance of this rule was subject to public participation. EPA received 170 public comments on the proposed rule from a variety of stakeholder groups (including industrial facilities).

The Department currently uses the nationally-available electronic reporting tool NetDMR, which has been in production since 2009. NetDMR allows permittees to submit DMRs electronically through a secure Internet application over the National Environmental Information Exchange Network. EPA and the Department recognize that the tool may require enhancements and is therefore continuously working on improvements.

NetDMR supports all the DMR routine reporting conventions such as the use of "<", ">", non-detect and below minimum level data. NetDMR utilizes XML, a common data standard compatible with most databases and therefore allows for accurate, reviewable, and editable uploads from properly formatted spreadsheets and text files. NetDMR has the ability to capture comments and attachments and any explanation of permit non-compliance, including permit limit exceedances, or missed samples.

NetDMR is in compliance with the Cross Media Reporting Rule (CROMERR), which requires the system to have an error-free transmission or to have any errors in transmission be documented. CROMERR requires that the signature process provide the signers with the opportunity to review the content of the document they are signing. NetDMR also automatically alerts or requires users to correct perceived errors

in the data or internally inconsistent entries. Thus, NetDMR improves data quality and provides more robust data.

In addition, EPA's Integrated Error Correction Process (IECP) allows any user to report potential data errors, on NetDMR and/or ECHO. IECP logs and tracks these error correction requests and resolution of error notifications, which are investigated by the appropriate EPA and State water data steward. Additional information on IECP and EPA's Information Quality Guidelines is available on EPA's website at <http://epa.gov/quality/informationguidelines/iqg-faqs.html>.

The Department recognizes that most errors are encountered at the initial stages due to having to manually enter the permit parameters required in the permit. However, as the renewal permit is issued, the permit and the registration letters will be more clearly written and such errors can and will be minimized. While this may require an initial increase in workload for both the State and the permitted entities, this is essential to allow for a smoother automated protocol that will significantly decrease the workload in the long term. EPA's assessment has shown that moving forward with electronic reporting of DMR will benefit permittees by freeing up resources sooner, and achieve significant increases in accuracy, transparency and accountability.

A concern was raised by one of the commenters about the complexity of the design of NetDMR. The Department and EPA will be evaluating more specialized training sessions for the different types of industries. Meanwhile, the Department is available for more individualized help and users may contact the appropriate NetDMR personnel.

Two of the commenters suggest that electronic submissions of DMRs through NetDMR need to be beta-tested, stating that system errors could result in reporting errors affecting a facility's compliance status. EPA already tests its data systems before deployment of new features in order to ensure proper handling of electronic data and to minimize or eliminate any system errors.

Comment 47. Sending in Reports via NetDMR Burdensome

There was a concern with some of the reports that must be submitted electronically via NetDMR, instead of as paper.

Response 47. Sending in Reports via NetDMR Burdensome

This basic requirement is based on federal regulations 40 CFR 122.41(1)(7). The notification requirements are after becoming aware of noncompliance that might endanger human health or the environment within 24 hours orally (by phone) and within 5 days by written report. This requirement isn't unique or new to this permit and it was in the 10MM. The new element though was the requirement to report through NetDMR. Based on these concerns, we did verify that the 5 day report doesn't have to be via NetDMR. Only numeric discharge monitoring results must be submitted via NetDMR at permit issuance. Five-Day reports may still be submitted on paper.

Comment 48. Smaller Companies Impacted More

There was a concern that although larger companies may prefer NetDMR or electronic reporting, smaller companies may find it a burden.

Response 48. Smaller Companies Impacted More

The Department acknowledges that compliance with the electronic reporting rule may involve some short term implementation burden to those regulated entities that are not use to conducting business online. However once implemented, the rule will result in paper and mailing savings that more than offset any additional labor cost in the aggregate. That said, regulated entities who feel that electronic reporting would impose great costs due to their particular circumstances may apply for waivers from electronic reporting. A regulated entity may apply for a temporary waiver request if they are physically located in a geographic area that is identified as under-served for broadband internet access or if they can fully demonstrate that electronic reporting would pose an unreasonable burden or expense to the facility.

TSS Limits (Sector J)

Comment 49. TSS Process Water Numeric Limits

There was a comment that Maryland has the most stringent effluent limitations for process water and mine dewatering discharge from limestone quarries of all the states that they operate in, with most limits being 2 to 3 times higher for total suspended solids.

Response 49. TSS Process Water Numeric Limits

The process water and mine dewatering TSS Limits are not new to the 15-MM and were in the 10MM. The Fact Sheet for this permit (15-MM) did go into depth on the background of those limits. State limits closely align with the Federal Model. Where we have established process water limits in the permit in the past, removing the limits that are found to be achievable in Maryland would constitute backsliding and isn't contemplated in this permit renewal.

The specific numeric limits in the 10-MM for sediment at mining operations are supported as follows: Suspended solids must be limited for process water discharges in this permit because mining exposes bare rock and soils, heavy equipment stirs up dust and sediment in standing water, and washing is performed specifically to remove and thus entrain solids. The origin of the decision to apply numeric limits to water associated with mining pits and washing was the 1977 ELG for this category, but the numeric limits remain logical as these facilities are areas of concentrated disturbance and these flows are amenable to more thorough controls than just the best management practices for sediment and erosion control that are applied to construction activity. All solids limits are technology-based. We established limits for quarries, sand & gravel mines (that includes borrow pits), aggregate washing, and concrete washing because those are the significant sources. Removal of solids from the water is an important part of wastewater treatment. Sediment associated with stormwater from asphalt plants can be adequately controlled by good management practices. For quarry dewatering and process wastewater, the differing numbers reflect the varying rates of generation and settleability of solids for carbonate and noncarbonate mines. The numbers in the current permit and some of those proposed for this revision are supported by *Suspended Solids Removal in the Crushed Stone Industry*, a 1981 report by Dolores Funke and P. Michael Terlecky of Frontier Technical Associates, Inc. The study was to be the first step in returning solids limits to the ELG. MDE has applied these limits to the mining permits since the 10MM.

At this time we are proposing a widely established method (as found in the MSGP) for evaluating sediments in wet weather. For fair weather dewatering of sand & gravel and borrow pits, the current limits are achievable and consistent with solids limits in other industrial sectors. They are unchanged.

MDE may not remove established effluent limits because to do so constitutes backsliding, which is prohibited.

Temperature Limits (Sector J)

Comment 50. Process Water Numeric Temperature Limits

There was a request in Sector J.9, Effluent Limitations, Appendix D, Table J-3, to remove temperature of discharge water, the water used in processing of stone and/or the water in settling ponds are at ambient temperature.

Response 50. Process Water Numeric Temperature Limits

This is verbatim from the 10MM. This limit applies only to Use III and Use IV streams which are cold water streams protecting certain organisms that require specific conditions to thrive. The limit is also only applicable “June through September”. Eliminating a limit from a permit would constitute backsliding. The limit addresses the heating of contained water exposed to the sun. The heated water does cause a concern for Use III or Use IV waters. A temperature limit is required to protect those streams. If there is nothing heating the water, then the limits should be easily achievable.

Water Use (Sector J)

Comment 51. Water Use Reporting

There was a request to remove calculations of water use from Section J.10.2.3, the vehicle washing addition to the permit.

Response 51. Water Use Reporting

This specific reference to water use is related to the new type of discharge authorized under this permit; namely, washing of vehicles. The operator is required to keep records of the amount of vehicle wash water used. All of the numeric limits applied in the 10MM, and under the 15MM, have a requirement for water use reporting. Flow is one of the parameters that is useful in determining pollutant impact on the receiving stream, is used in calculating annual fees, and is used to evaluate potential for facilities when a TMDL is established.

pH Limits

Comment 52. Concrete Washout pH Limits (Sector E)

There were many requests to re-evaluate pH limits for concrete washout.

Response 52. Concrete Washout pH Limits (Sector E)

After evaluating the industry’s concerns regarding the pH limits in the 10MM, the Department has revised the limits. The 10MM permit tried to present a number of options to allow for mixing in streams, and a measurement of the pH at the edge of a mixing zone. We discussed the challenges with measuring pH in-stream for operators who may not have access to the stream, or who discharge to MS4 systems where the discharge point is mixed with other waters and even unknown or a substantial distance from the facility. The 10 MM limits were complicated by several contingencies and footnotes.

Streams impaired for pH are not common, unlike the streams impaired for TSS. In Maryland, low pH impairments are primarily caused by historic extraction of coal in the western portion of the State, and not from the activities covered by this permit. Where TMDLs have been established, they are based on a surrogate, such as iron, sulfates or nitrates, to address the source of the pH impairment. The following map illustrates waterbodies/watersheds which are currently listed as impaired for pH. High pH also occurs, however no TMDLs have been established for high pH.

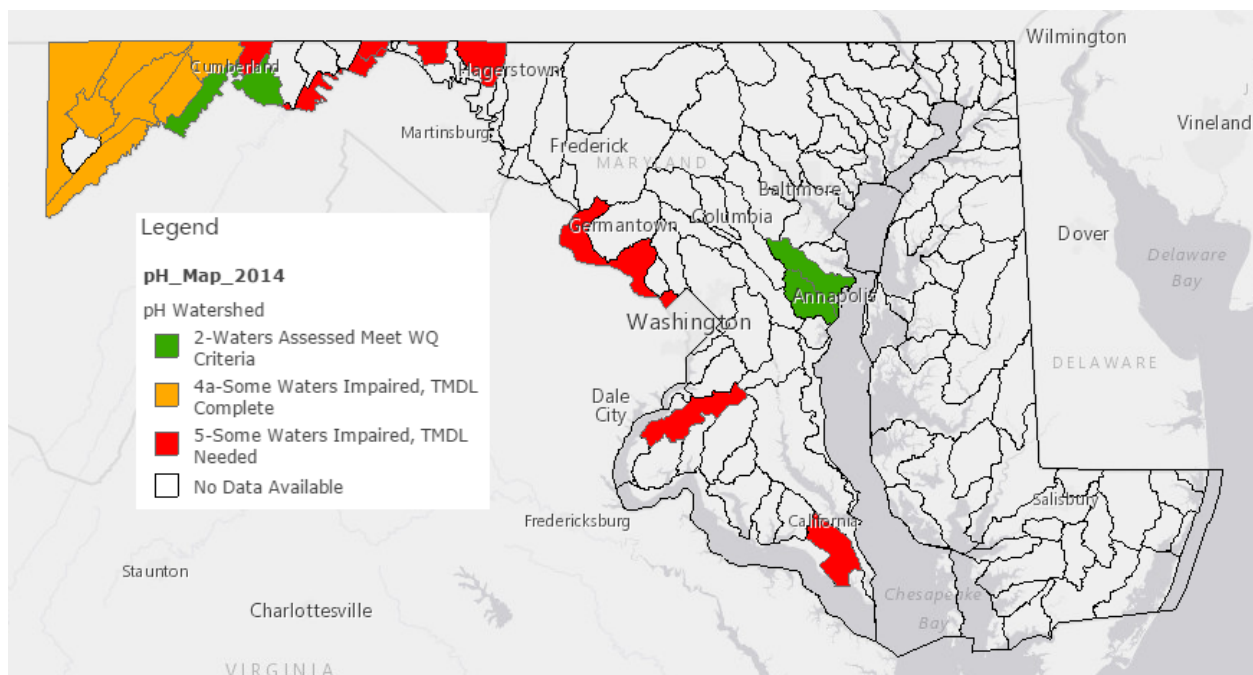


Figure 1 - 2014 pH Assessments in Maryland (2014 Assessment)

In reviewing the comments, we reviewed the EPA national standard for pH. The EPA National Standard was based on the "Quality Criteria for Water", 1986 ("Gold Book"). The National Criteria for chronic toxicity was 6.5 to 9.0 for fresh water streams, and 6.5 to 8.5 for salt water streams. There was no acute criteria. Also, according to the Gold Book, the range of 6.0 to 6.5 was unlikely to harm fish unless CO2 levels were greater than 100 mg/L. In Maryland, our regulations implemented pH as an in-stream goal of 6.5 to 8.5, consistent with the National Criteria, where the drainage will eventually drain to the Bay or discharge directly to the ocean.

Instead of trying to enforce an in-stream limit, the 15MM will be based on a combination of the technology based limit of 6.0 to 9.0 as a daily maximum and a 6.5 to 8.5 as a monthly average to ensure the chronic limits in COMAR are met. In cases where the waste stream will be relatively constant, such

as concrete washout, both the acute and chronic standard will be applied. In other cases, where the discharge is a flush based on stormwater, the technology or daily maximum of 6.0 to 9.0 will be applied.

This approach isn't backsliding, rather it clarifies the approach for implementation and clarifies the 10MM language that commenters had found confusing.

The Final Determination limits will be at end of pipe for pH for all sectors and will be:

6.0 to 9.0, daily maximum.

6.5 to 8.5, monthly average.

We will reserve pH difference in cases where an individual permit may more directly address local water quality conditions. In the case where the discharge from the operation dominates a receiving stream, an individual permit may be required.

Comment 53. Dewatering pH Limits (Sector J)

There were many comments requesting that we re-evaluate Sector J Table J-3 pH limits.

Response 53. Dewatering pH Limits (Sector J)

Based on the analysis performed for Concrete Plants (in previous comment/response above), Final Determination pH limits will be at end of pipe for all sectors per and shall be:

6.0 to 9.0, daily maximum.

6.5 to 8.5, monthly average.

Concrete Plant Process Water Conditions (Sector E)

Comment 54. Concrete Washout vs Vehicle Wash Water

There were several requests to clarify and differentiate between concrete washout and vehicle wash water.

Response 54. Concrete Washout vs Vehicle Wash Water

We will add two definitions to our permit (Appendix E).

- 1) Concrete Washout : After concrete is poured at a construction site, the chutes of ready mixed concrete trucks and hoppers of concrete pump trucks are washed out to remove the remaining concrete before it hardens. Equipment such as wheelbarrows and hand tools also are washed down. Additionally, at the end of each work day, drums of concrete trucks, mixer truck barrels or concrete moulds or forms, are washed out. These activities collectively produce process water commonly referred to as concrete washout.
- 2) Vehicle Wash Water : The routine washing of vehicle exteriors to remove sediment and to make them presentable in the public.

Table E-4 has been updated to indicate that it applies to Concrete Washout from Concrete Mixer Trucks, Moulds, and Equipment. It also includes vehicle wash water if the Concrete Washout and Vehicle Wash Water mix.

Table E-5 has been added to indicate what is required for outfalls with only vehicle washing, which includes monitoring for oil sheen and reporting measured flow.

If all vehicle wash water is collected in the same containment as concrete washout, then Table E-4 applies to all the process waters combined there.

Comment 55. Vehicle Washing

There were several concerns about documentation and maintenance requirements for vehicle washing at concrete plants.

Response 55. Vehicle Washing

The following explanation should clarify key points regarding these concerns.

- 1) MSGP Eligible Discharges: The MSGP explicitly prohibits washing vehicles for all sectors except mining, and for a mining operation only allows it during the excavation phase, whereas the 15MM allows it for several sectors.
- 2) 10MM Eligible Discharges: The 10MM was not clear as to what was covered regarding vehicle washing. The 10MM listed “Wastewater from hosing down vehicles, including washing concrete mixer trucks, mixing equipment, and moulds or forms, to surface or ground waters;” as an eligible discharge (Figure 1 below). Then the permit provided specific numeric limits “As specified below, all discharges from washing mixer trucks, moulds, buildings and equipment and of excess feed water to surface waters of this State shall be monitored by the permittee at each point of discharge. Wastewater from concrete plants using moulds shall be monitored for oil and grease prior to being discharged to ground waters.” Each numeric limit table, including quarry dewatering, also had a footnote: “No visible sheen is permissible on any water leaving the facility. The permittee shall observe any vehicle wash water on each day the facility is in operation to verify compliance with this requirement” prohibiting oil sheen. It could be surmised that every outfall, was subject to the same numeric limits, even if the only discharge was from vehicle washing.
- 3) 15MM Eligible Discharges: The 15MM attempts to provide specific controls for vehicle washing. Rather than providing numeric limits, we again attempt to provide specific narrative controls.

3. Concrete Plants

As specified below, all discharges from washing mixer trucks, moulds, buildings and equipment and of excess feed water to surface waters of this State shall be monitored by the permittee at each point of discharge. Wastewater from concrete plants using moulds shall be monitored for oil and grease prior to being discharged to ground waters.

Parameter	Quantity or loading			Quality or concentration				Frequency	Sample type	Notes
	Monthly avg.	Daily max	Units	Minimum	Monthly Avg.	Maximum	Units			
Flow	Report	Report	gpd					1/month	measured	
pH				6.5		8.5	s.u.	1/month	grab	a impaired waters
pH				6.0		8.5	s.u.	1/month	grab	a non-impaired waters
pH difference				0		0	s.u.	1/month	grab	b
Total Suspended Solids					30	60	mg/L	1/month	grab	
The monthly average TSS applies in every month in which there are more than two discharges. A discharge beginning one day and lasting into a second day is considered two discharges when determining whether or not the monthly average limit applies.										
Oil & Grease						15	mg/L	1/month	grab	c For concrete plants using moulds only

No visible sheen is permissible on any water leaving the facility. The permittee shall observe any vehicle wash water on each day the facility is in operation to verify compliance with this requirement.

NOTES

- (a) If the pH of the wastewater is between 8.5 and 9.0 in pH impaired waters, or between 6.0 and 6.5 or 8.5 and 9.0 in non-pH impaired waters, the permittee may also measure the pH of the receiving waters no farther than ten feet directly downstream (or down current on tidewater) of the point of discharge, and record that value to determine compliance.
- (b) If the pH at the point of discharge or at the downstream monitoring point does not meet the pH limit stated, the permittee shall also record the "pH difference". "pH Difference" is a calculated value, arrived at by subtracting the pH of the ambient receiving water from the pH of the discharge or from the pH of the water downstream of the mixing zone. The permittee shall measure the pH of the receiving water upstream of the discharge to determine the ambient pH. If the pH downstream of the discharge is lower than 6.5 SU, the permittee shall record the pH difference as a minimum which may not be less than zero. If the pH downstream is higher than 8.5, the permittee shall record the pH difference as a maximum which may not be greater than zero. The permittee shall maintain a record of all pH measurements and their location, to be submitted as an addendum to each discharge monitoring report, if requested.
- (c) Pertains to SIC 3272 concrete plants only.

Figure 1 - 10MM Vehicle Washing and Concrete Truck Washout

During site visits by MDE to facilities, routine washing of vehicles appeared to be a common practice. This permit attempts to bridge a gap and allow the washing of vehicles in addition to concrete truck washout to be covered under the 15 MM, by providing basic practices to protect waters of this state.

Flow measurement was required in the previous 10MM general permit. We will make it clear that water use can be estimated based on a water bill or based on number of vehicles washed or any other reasonable approach that the industry can provide. Water use is a basis for fees paid by the operator and for judging magnitude of potential to pollute. If industry were to document the average use of water for washing vehicles was 5 gallons a year vs 500,000 gallons, this data helps as we evaluate requirements and practices.

Documenting maintenance of grit traps or other treatment devices is useful and beneficial and helps avoid potential problems., We will remove the requirement for evaluating depth of the grit at the request of the commenter, but this practice if followed is likely to prevent future problems.

The new language will read:

E.6.2.2 Inspection and Maintenance.

You must inspect components of any wastewater treatment system - including grit traps, floor drains, oil/water separators, and drainfield, as part of your routine facility inspections. You must remove these

materials before they accumulate to a thickness greater than 50% of the liquid depth, or before such material would cause the discharge limits to be exceeded, but not less than once per year.

Comment 56. Numeric Limits for Oil & Grease:

There was a suggestion that we remove the oil & grease limit when concrete operations use vegetable oil instead of other oils as a release agent.

Response 56. Numeric Limits for Oil & Grease:

If the release agents are oil based, they are subject to the oil and grease limits, which is not a change from the 10MM. However, this oil and grease limit is only specified when these moulds are used, and not for vehicle washing as the comment suggests. If vehicle wash occurs, there are certain prohibitions and a requirement to limit any oil sheen discharges.

Wash Water Special Conditions (Sector J)

Comment 57. Vehicle Wash Special Conditions

There were several concerns about documentation and maintenance requirements for vehicle washing at mining operations.

Response 57. Vehicle Wash Special Conditions

The 10MM allowed for “Wastewater from hosing down vehicles, including washing concrete mixer trucks, mixing equipment, and moulds or forms, to surface or ground waters;” and prohibited “Vehicle wash water from steam cleaning or cleaning with detergents”. It provided numeric limits specific to Concrete Plants on page 21, table 3 (Figure 1 above in Sector E discussion), as well as footnotes on all the effluent tables regarding observations for oil sheen for mining sites (Figure 2 below). The permit also referred to acceptable practice to wash vehicles, discharge to ground water and observe for oil and grease. However it didn’t specify what to do if oil and grease were observed.

Temperature, Use III				68	F	1/month	i-s	Footnote June - September only; varies with receiving water e Report only if temperature is high
Temperature, Use IV				76	F	1/month	i-s	
Temperature difference			0		F	1/month	i-s	

No visible sheen is permissible on any water leaving the facility. The permittee shall observe any vehicle wash water on each day the facility is in operation to verify compliance with this requirement.

(a) If the pH of the wastewater is between 8.5 and 9.0 in pH impaired waters, or between 6.0 and 6.5 or 8.5 and 9.0 in non-pH impaired waters, the permittee may also measure the pH of the receiving waters no farther than ten feet directly downstream (or down current on tidalwater) of the point of discharge, and record that value for the pH to determine compliance.

Figure 2 – 10MM Vehicle wash water restriction for mining.

B. Discharges to Groundwater

For discharges to groundwater via treatment, holding, or seepage facilities that are designed with no means for overflow, mining and process-generated wastewater from crushed, broken, and dimension stone, sand, gravel, clay, shale, fill dirt and ready mix operations, the discharge limits and monitoring requirements below (Part IV.L.) are waived. Discharges of vehicle wash water to ground water must be observed for oil and grease.

Figure 3 – 10MM Discharges of vehicle wash to ground water.

Visits to mining sites showed that washing of sediment from vehicles is a common practice. A common practice is to wash the wheels of vehicles before going offsite, however condition B above didn't address wheel wash. What we attempted to do with the 15MM was to allow for the washing of vehicles with the practices commonly used in our individual permits, as well as our General permit for Vehicle Washing.

We understand the concern and have made the following change. We have reduced the record keeping to only two cases; 1) any observations of a visible oil sheen and 2) description of any resulting actions that you may have taken to resolve problems; and calculations of your water use. Recording water volume used and discharges is helpful in controlling pollution, reducing wasteful water use and improving operations.

Similar to vehicle wash in Sector E, we will clarify that vehicle wash, when performed at areas other than those covered by dewatering limits, will have their own discharge parameter table.

Tables J-3, 4, 5, and 6 have been updated to indicate it is specific to Dewatering. It also includes vehicle wash water if the streams of water mix.

Table J-7 has been added to indicate what is required for outfalls with only vehicle washing, which includes monitoring for oil sheen, and reporting estimated flow.

If all vehicle wash water is collected in the same drainage area as the dewatering, then Table J-3, 4, 5, 6 apply to all the process waters combined there.

Benchmark Monitoring

Comment 58. Ceasing Benchmark Monitoring After 4 Samples

There was a suggestion that Part V. B. 3.a. "If you have met the requirements and plan to stop benchmark monitoring for a parameter, you must provide written notification to the Department's Compliance Program of this determination with your benchmark monitoring report and modify your SWPPP." could be removed from the permit, since they felt the MSGP didn't require this notification.

Response 58. Ceasing Benchmark Monitoring After 4 Samples

The MSGP does require reporting if all benchmark monitoring requirements have been fulfilled. It states that: "Accordingly, the following changes to your monitoring frequency must be reported to EPA through

the submittal of a “Change NOI” form in NeT, which will trigger changes to your monitoring requirements in NetDMR:

- All benchmark monitoring requirements have been fulfilled for the permit term;”

....

“Once monitoring requirements have been completely fulfilled, you are no longer required to report monitoring results using NetDMR. If you have only partially fulfilled your benchmark monitoring and/or impaired waters monitoring requirements (e.g., your four quarterly average is below the benchmark for some, but not all, parameters; you did not detect some, but not all, impairment pollutants), you must continue to use NetDMR to report your results, but you must report a “no data” or “NODI” code for any monitoring parameters that have been fulfilled.”

By requiring notice and a letter requesting to be relieved of the monitoring, we can confirm that you are done. It may be that in the future, this will become automated, and we can then also take advantage of that feature.

pH Benchmark for Crushing Operations (Sector L)

Comment 59. Crushing Required for Sector L

There was a request for clarification whether a facility crushing concrete must both receive, stockpile *AND* crush concrete or asphalt for re-use in order to fall under the 15MM? If they do not operate a crusher, but do use a screen, are they still eligible for the 15MM, or would they fall into the 12-SW?

Response 59. Crushing Required for Sector L

Yes, the concrete or asphalt crushing is the trigger to require 15-MM permit coverage. Purely stockpiling concrete or asphalt, without any crushing operation, doesn't fit this permit, and those operators may be covered under 12-SW as a refuse disposal type activity.

Comment 60. pH benchmark used for Asphalt Plants

The asphalt industry felt that crushing of asphalt should not result in required benchmark testing of pH.

Response 60. pH benchmark used for Asphalt Plants

We agree that pH applies only to concrete crushing operations, not to asphalt. The permit has been modified to clarify that.

Asphalt Plant TSS Benchmarks (Sector D)

Comment 61. Asphalt Plant TSS Benchmarks

The asphalt industry objected to Sector D Table D-1 benchmark testing of Total Suspended Solids (TSS) quarterly for asphalt paving facilities.

Response 61. Asphalt Plant TSS Benchmarks

The TSS benchmark is appropriate for asphalt operations, which do store material on-site. If the operations are well maintained, then the industry will have data. In addition, it is known that asphalt plants may discharge water with TSS and monitoring is authorized under § 9-331 of the Environment Article. A benchmark will provide a numeric value to evaluate the practices at the operation so that they are protective of our water resources.

Sand and Gravel Nitrogen and TSS Benchmarks (Sector J)

Comment 62. Nitrogen Benchmark for Sand and Gravel

Sand and gravel mining operators objected to the 0.68 Nitrate plus Nitrite Nitrogen .

Response 62. Nitrogen Benchmark for Sand and Gravel

This nitrogen (only addressed nitrate plus nitrite) benchmark is removed from the final permit. The nitrate plus nitrite benchmark only applied to a sand and gravel operation that is already subject to TSS, and as noted, not prone to produce nitrogen in their discharge. We suspect that it was in place since sand and gravel mines are shallow, and nutrients would be present in topsoil, where as other mines, the soil exposed would be from a deeper profile. We can re-evaluate benchmarks for nitrogen after EPA finishes their new study of all sectors.

Concrete Plant Iron Benchmark (Sector E)

Comment 63. Benchmark for Iron

Concrete plant operators objected to Sector E.4, Sector Specific Benchmarks, requiring total iron.

Response 63. Benchmark for Iron

Iron has been removed. We did note that at least Virginia had done the same with their permit. We will be watching the evaluation process of the established benchmarks being pursued by EPA for the MSGP, and may revisit this during the next permit renewal if the EPA maintains iron as one of the benchmarks.

Corrective Actions

Comment 64. Authority to Require Corrective Actions

It is alleged that Part IV, the Corrective Action and the Enforcement Provisions in Part VI of the Draft Permit Exceed the Department's Authority and Creates a New Punitive Layer of Enforcement Consequences.

Response 64. Authority to Require Corrective Actions

The request is to eliminate PART IV. CORRECTIVE ACTIONS and from PART VI. STANDARD PERMIT CONDITIONS Q. No change required. The Clean Water Act and the State's Water Pollution Control laws requires a person to obtain a permit prior to discharging pollutants into State waters and the Department may issue a discharge permit if it finds that the discharge will meet applicable water quality standards and effluent limitations. A permittee is required to comply with the terms and conditions of its

permit and failure to comply with a permit subjects a permittee to civil and administrative penalties. Commenter fails to provide any support for its allegation that penalties are only authorized for blatant or repeat violations.

Comment 65. Effect of a Corrective Action

There was a suggestion that Part IV . A. Corrective Actions “If any of the following conditions occur, you must review and revise the selection, design, installation, and implementation of your control measures to ensure that the condition is eliminated and will not be repeated in the future:” which was from the 2009 MSGP, be replaced with wording from the June 4, 2015 EPA Multi-Sector General Permit (MSGP) Section 4.1 “...you must review and revise as appropriate, your SWPPP so that this permit’s effluent limits are met and pollutant discharges are minimized.”.

Response 65. Effect of a Corrective Action

The purpose of the trigger points and evaluation of SWPPP is to engage the facility before violations occur. The requirement and condition will not be changed. The corrective action language originated in the 2008 MSGP (it was also in our 12-SW), not in the 2015 MSGP. Both the 2008 and 2015 MSGP language address changes to the SWPPP, including reviewing and revising the selection, design, installation and implementation of your control measures. The 2015 MSGP added requirements for immediate and subsequent actions to accomplish this. The comment alleges that the goal is to keep the water clean and not redesign the facility. If the operator is keeping the water clean, then neither redesign of the facility nor evaluation of a correction action or SWPPP would be necessary. These trigger points require you to re-evaluate the design as necessary to keep waters clean. In short, the 2008 language applies only if water is not clean, and redesign or other measures are only necessary if the facility is unable to “keep the water clean”.

Comment 66. Deadline for Immediate Action

There were concerns with the deadline for implementing corrective actions as required by the permit.

Response 66. Deadline for Immediate Action

The requirements are not duplicative: 1) one requires *immediate actions* when numeric effluent limitations have been exceeded and requires you to so inform the Department, and 2) the other requires *documentation* of resulting corrective actions 14 days after an event has occurred, which documentation must be kept onsite. No changes made.

Regarding the concern about deadlines, the section referenced from the 2015 MSGP (6.2.2.3) was specific to resampling when a numeric effluent limitation was exceeded. EPA has the same language and timeframe in the 2008 MSGP, though they provide some leeway in the 2015 MSGP. We will add the language “(or up to 30 days if 14 days is infeasible)” to provide flexibility in response to the request.

Comment 67. Deadline for Documentation

There was a documentation concern that Part IV. D. 3 and Part IV.D.2 were duplicative. There were also concerns with the deadline for documentation of corrective actions as required by the permit.

Response 67. Deadline for Documentation

The requirements are not duplicative: 1) one requires *immediate actions* when numeric criteria have been exceeded and requires you to so inform the Department, and 2) the other requires *documentation* of resulting corrective actions 14 days after an event has occurred, which documentation must be kept onsite. No changes made.

Regarding the concern about deadlines, the section referenced from the 2015 MSGP (6.2.2.3) was specific to resampling when a numeric criteria was exceeded. EPA has the same language and timeframe in the 2008 MSGP, though they provide some leeway in the 2015 MSGP. We will add the language “(or up to 30 days if 14 days is infeasible)” to provide flexibility in response to the request.

SWPPP and Documentation Requirements

Comment 68. Electronic Copy of SWPPP

The concern was that the requirement to scan and send in copies of SWPPPs is a burden on small businesses.

Response 68. Electronic Copy of SWPPP

We have received both paper copies of handwritten and electronic version of SWPPPs. Based on our observation, keeping and updating an electronic copy is of great benefit for updating. It is easier to share and update. Getting a copy of the SWPPP is instrumental in insuring that the permittee has an updated valid copy. For the 12SW, we were able to accommodate one (1) facility (out of over 1200 SWPPPs received) that maintained their SWPPP in a notebook, when we received a scanned version. We have found that such an exception is very unusual, however, can still be achieved by an operator. No change required.

Comment 69. Keeping SWPPP in EMS System vs in Binder

There were multiple requests that “Records may also be kept in an Environmental Management System (EMS) that is accessible by site personnel” as an option to keeping documents with the SWPPP.

Response 69. Keeping SWPPP in EMS System vs in Binder

We will include the opportunity to keep records with the SWPPP or readily available through the EMS system by employees onsite.

Comment 70. SWPPP Imposes Burden

There was a concern that the SWPPP requirements impose significant additional costs and obligations on the permittees.

Response 70. SWPPP Imposes Burden

One allegation is that the permit that would require a consultant to create SWPPPs. The previous permit, however, already required a SWPPP, and a guide was provided to help develop a SWPPP. This permit is no different. Below we break down the SWPPP requirements section by section (10MM pages 22 through 24 vs 15MM pages 20 through 24), which demonstrate that the requirements regarding the SWPPP are not substantially different. The items identified as different should not require a consultant

to identify. The operator should be able to take their SWPPP from the existing permit and fill in this information, if they haven't already done so based on the 2009 guide EPA provided for operators, which was available for the prior permit.

10MM SWPPP Requirement	15MM SWPPP Requirement	Comment
A guide for developing storm water management plans is available at http://www.epa.gov/npdes/pubs/industrial_swppp_guide.pdf .	The guide is still available for use by an operator wanting to create or update a SWPPP.	Similar requirement shouldn't change what active sites are doing.
The Storm Water Pollution Prevention Plan must include a site map, sketch, or plan. Map requirements are included in the external SWPPP guide (Page 11-13).	The 15MM requires a <i>General location map and a Site map</i> . Map requirements are included in the permit.	Similar requirement shouldn't change what active sites are doing.
SWPPP Review required when told by the Department to update it, or when there were changes or impacts to water quality.	SWPPP changes are triggered by Corrective Actions including when told by the Department.	Similar requirement shouldn't change what active sites are doing.
Best management practices must be implemented as part of the SWPPP requirements.	Stormwater best management practices are required as a basic element of the permit, and documentation is secondary.	Similar requirement shouldn't change what active sites are doing.
Inactive Sites require certain SWPPP documents to be kept where they can be found with updated SWPPP sent to MDE when the site becomes active.	Inactive sites must notify MDE when they become active.	Similar requirement shouldn't change what active sites are doing.
Inspections shall be performed at least twice per year, at least 120 days apart, and must be documented with a checklist or other summary. The record shall include a certification that the site is in compliance with the SWPPP and this permit, or note any deficiencies noted and the necessary follow up actions.	You are required to keep the following inspection, monitoring, and certification records with your SWPPP that together keep your records complete and up-to-date, and demonstrate your full compliance with the conditions of this permit. The 15MM lists the actual documents that should be maintained on-site.	Similar requirement shouldn't substantially change what active sites are doing.
Facility security shall be provided to prevent accidental or intentional entry which could cause a discharge.	Not spelled out in our 15MM.	Shouldn't impact the SWPPP.
The permit doesn't specify that the permittee must identify potential pollutants, but only points the permittee to use the	Summary of Potential Pollutant Sources is required as part of the SWPPP. It is detailed out in the permit.	Similar requirement shouldn't change what active sites are doing.

EPA Guide (pages 7-10).		
A Pollution Prevention Committee is required.	Stormwater Pollution Prevention Team is required.	Similar.
Employee training programs included.	Employee Training program included.	Similar.
Salt stored for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation.	Salt Storage. You must document the location of any storage piles containing salt used for deicing or other commercial or industrial purposes.	Similar.
The operation shall practice good housekeeping procedures to maintain a clean, orderly facility.	Good Housekeeping (See Part III.B.1.b.ii or Appendix D) – A schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers;	Similar.
Equipment for cleaning up spills shall be maintained in a consistent and marked area, and available to all personnel.	Spills and Leaks. You must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks.	The 15MM requires that you make records of spills. The reason is that these are potential sources of pollutants in the future.
The operation shall follow a sediment control plan to prevent the discharge of sediment to surface water.	An Erosion and Sediment Control Plan is now required for Sector J.	Only applies to grading at certain facilities, and only during construction. Similar.
The industrial equipment and systems on site must be regularly inspected, tested, maintained, and repaired to avoid situations that may result in leaks, spills, and other releases of pollutants in storm water discharged to receiving waters. All control measures that are used to achieve the effluent limits required by this permit in effective operating condition shall be maintained. If you find that your control measures need to be replaced or repaired, etc...	Maintenance (See Part III.B.1.b.iii or Appendix D) – Preventative maintenance procedures, including regular inspections, testing, maintenance, and repair of all industrial equipment and systems, and control measures, to avoid situations that may result in leaks, spills, and other releases, and any back-up practices in place should a runoff event occur while a control measure is off-line;	Similar.
In areas with priority chemicals identified in SARA Title 3, Section 313, additional storm water controls may be necessary.	Facilities Subject To SARA Title III, Section 313 Requirements If you are subject to SARA Title III, Section 313 (42 U.S.C.	Similar.

<p>Develop, implement, and maintain such storm water management controls to minimize the exposure of storm water entering and leaving the property to these significant sources of pollutants.</p>	<p>11023) reporting requirements, in addition to the requirements of this Part, provide additional narrative on the preventive measures used to eliminate the exposure of these chemicals to stormwater run-on or run-off</p>	
<p>The permit doesn't specify that the permittee must identify non-stormwater discharges, but only points the permittee to use the EPA Guide (pages 8-9).</p>	<p>d. Non-Stormwater Discharges. You must document that you have evaluated for the presence of non-stormwater discharges and that all unauthorized discharges have been eliminated. Documentation of your evaluation must include: i.) The date of any evaluation; ii.) A description of the evaluation criteria used; iii.) A list of the outfalls or onsite drainage points that were directly observed during the evaluation etc...</p>	<p>This permit helps to clarify what discharges are covered. If other non-stormwater coverage is required, the permittee must identify and remove or apply for coverage. Implied in the 10MM, but laid out specifically here in 15MM. Similar if they followed the 2009 guide. This should not impact the SWPPP if all non-stormwater discharges are permitted or accounted for.</p>
<p>The permit doesn't specify that the permittee must describe control measures selected, but only points the permittee to use the EPA Guide (pages 14).</p>	<p>4. Description of Control Measures to Meet Effluent Limits You must document the location and type of control measures you have installed and implemented at your site to achieve the non-numeric effluent limits in Part III.B.1.b and, where applicable, in Appendix D Sector-Specific Requirements for Industrial Activity, etc...</p>	<p>The permittee should be able to describe what measures they are implementing for which pollutants. Similar if they followed the 2009 guide.</p>
<p>The permit doesn't specify that the permittee must describe your procedures, but only points the permittee to use the EPA Guide (pages 26-33).</p>	<p>i.) You must document in your SWPPP your procedures for performing, as appropriate, the three types of inspections specified by this permit, including: Routine facility inspection; Quarterly visual assessment of stormwater discharges; and Comprehensive site inspections. ii.) For each type of inspection performed, your SWPPP must identify: Person(s) or positions of person(s) responsible for inspection; and Specific items to be covered by the inspection, including schedules for specific</p>	<p>These are basic requirements when developing a plan. You need the task and the resource identified. Similar if they followed the 2009 guide.</p>

	outfalls. Etc...	
The permit doesn't specify that the permittee must sign the SWPPP, but only points the permittee to use the EPA Guide (page 34).	Signature Requirements You must sign and date your SWPPP in accordance with Part II.C, including the date of signature.	The SWPPP needs to be endorsed by a senior manager, to carry weight. The SWPPP guide and federal regulations describe this, but this belongs in the permit so it is understood by the operator. Similar if they followed the 2009 guide.
The permit doesn't specify that the permittee must describe your spill prevention procedures, but only points the permittee to use the EPA Guide (page 18).	iii.) Spill Prevention and Response Procedures (See Part III.B.1.b.iv or Appendix D) – Procedures for preventing and responding to spills and leaks. You may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) etc...	The 10MM mentioned spill response only once and no mention of the SPCC. The 15MM allows that to be incorporated by reference in your SWPPP. Similar if they followed the 2009 guide.
The permit doesn't specify which records to keep onsite, but only points the permittee to use the EPA Guide (page 36).	You must retain a copy of the current SWPPP required by this permit at your facility, and it must be immediately available to the Department (an electronic copy easily available to personnel is also acceptable). Documentation of any corrective action taken at your site, etc...	These are all requirements which protect the facility and are not meant to trip a facility up. Similar if they followed the 2009 guide.

To summarize, this permit spells out items the 10MM had incorporated by reference. These documents are required to be compliant with the permit. The commenter doesn't disagree with any of the specific documents, just that they potentially cost money. The permit does not place undue stress on operators, but instead provides certainty as to what is required in the SWPPP and associated documents.

The second comment alleges a perceived more frequent update and submittal to the Department. Both the 10MM and 15MM required updates of the SWPPP. The 15MM doesn't require more frequent updates. The 15MM can be updated using the same guide used under 10MM, which is meant for use by operators, not by consultants. MDE requires that the updated version be sent once, at the time the facility is registered under the new 15MM. There should be no gridlock because they are not required to submit these to MDE.

The third comment concerned the requirement to document your three year history of spills and leaks in the SWPPP. It is alleged that the requirement exceeds the authority of the Department and makes no sense. In reality, the 10MM had required: "Inspections shall be performed at least twice per year, at least 120 days apart, and must be documented with a checklist or other summary that shall be retained for at least three years. The record shall include a certification that the site is in compliance with the SWPPP and this permit, or note any deficiencies noted and the necessary follow up actions. Records shall include a description of incidents such as spills, or other discharges, along with other information describing the

quality and quantity of storm water discharges.” It also required “Records Retention All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and original recordings from continuous monitoring instrumentation, shall be retained for a minimum of three years. This period shall be extended automatically during the course of litigation, or when requested by the Department.” The last three years worth of the twice annual inspections (that is 6 records) is important for determining where your spillage is occurring. This is information relevant in creating plans to prevent spillage / uncontrolled discharges in the future.

As discussed in the additional costs section, this permit allows for less frequent monitoring and reduced testing at outfalls that are stormwater only. While a permittee is not required to hire a consultant to update a SWPPP, a consultant may prove to be beneficial in assisting a facility in finding ways to reduce costs.

No changes made.

Comment 71. Documenting Significant Spill Locations

There was a concern with the Part III.C.3 documentation requirement of spill locations, and a request to change the wording to focus on locating where spills are likely to occur.

Response 71. Documenting Significant Spill Locations

The permit’s prevention focus is reflected in this requirement, which is to locate where spills that are exposed to stormwater have occurred. The result is that this documents where the potential exists. The commentor suggests changing this to identifying where spills are likely to occur. This is a subtle change. If there are areas that are susceptible to spills and these areas are your focus, that effort is not prohibited. The requirement here is to locate what has happened in the past as well, as that has a way of repeating itself. No change made.

Comment 72. Retaining Documents for 3 years vs 5 years:

There was a concern with the requirement to keep records for 5 years of any spills.

Response 72. Retaining Documents for 3 years vs 5 years:

We agree this should be 3 years of retained records, as was required in the past. Final permit updated.

Comment 73. Maintaining Other Paper Documents on-site vs in EMS

There were requests to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Part V. A., V.A.1., V.B.3.c.ii, V.C.4., J.6.4.

Response 73. Maintaining Other Paper Documents on-site vs in EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 74. Maintaining Visual Assessment as Paper vs in EMS

There were requests to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Part V. A. 3.b. “Documentation of the rationale for no visual assessment for the quarter must be included in SWPPP records.”

Response 74. Maintaining Visual Assessment as Paper vs in EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 75. Maintaining Supporting Rationale as Paper vs in EMS

There was a request to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Part V.B.3.c.ii) “You must document and maintain with the SWPPP your supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels.”

Response 75. Maintaining Supporting Rationale as Paper vs in EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 76. Documenting Exception Report via Paper or EMS

There was a request to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Problem: Part V.C.4. “... Therefore, if it is not possible to collect the sample within the first 30 minutes of a measurable storm event, the sample must be collected as soon as practicable after the first 30 minutes and documentation must be kept within the SWPPP explaining why it was not possible to take samples within the first 30 minutes.”

Response 76. Documenting Exception Report via Paper or EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 77. Documenting Failure to Sample via Paper or EMS

There was a request to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Part V.C.5. “You must keep a record with your SWPPP of any failure to monitor as specified, indication the basis for not sampling during the usual reporting period.”

Response 77. Documenting Failure to Sample via Paper or EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 78. Documenting History of Spills via Paper or EMS

There was a request to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Sector J section J.6.3 “... document in your

SWPPP ...history of significant leaks...characterization data and test results for potential; generation of acid rock drainage.”

Response 78. Documenting History of Spills via Paper or EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 79.Documenting Training History via Paper or EMS

There was a request to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Sector J section J.6.4 “Employee training...document in your SWPPP.”

Response 79. Documenting Training History via Paper or EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 80.Documenting Vehicle Wash Requirements via Paper or EMS

There was a request to allow documentation to be kept in the Environmental Management System (EMS) system instead of paper copy with the SWPPP regarding Subpart P Section P.4.4 “...attach all pertinent documentation/information [on vehicle washing] in the SWPPP”.

Response 80. Documenting Vehicle Wash Requirements via Paper or EMS

We will include the opportunity to keep it with the SWPPP or readily available through the EMS system by employees onsite.

Comment 81.Inspections / Paperwork

There was concern that the new permit requires more paperwork, which can then be used by an inspector to find a facility in violation. “If we missed a piece of paper or something, to me it’s not something that is actionable for monetary damages.”

Response 81. Inspections / Paperwork

The 10MM required inspections twice a year, and monthly monitoring of stormwater and process water. The 15MM has quarterly inspections, an annual comprehensive inspection, quarterly monitoring of stormwater and monthly monitoring of process water. The monthly monitoring of stormwater was reported and kept onsite, where as the 15MM has you only keeping it onsite. In reality the paperwork requirements are less with the 15MM. The records to be kept with your SWPPP are proof that you are in compliance with the permit. For example, if you provide yearly training to your employees, but cannot prove it by way of documentation, then you cannot claim you are abiding by the permit regarding training. If you cannot document that you walked your site, you cannot claim that you perform comprehensive site visits. Most operators already understand this basic concept, but now the permit ensures that all operators follow this for their own protection.

Comment 82. Notice Fails to Provide Requisite Level of Specificity

The concern is specific to administrative notification requirements in COMAR 26.08.04.08D(2). The fact sheet and accompanying draft permit was to describe the class of discharges to be regulated, and provide supporting documentation and data for changes to the general discharge permit. In addition, there were 5 specific areas of concern addressed in other sections of this response document.

Response 82. Notice Fails to Provide Requisite Level of Specificity

The comment suggests that the fact sheet and the public notice failed to provide specificity required by the regulation (we believe the comment mis-identified the reference, and it should be G(2) not D(2)). First reference is that the Fact Sheet was required to describe “the class of discharges to be regulated, outlined in the draft permit conditions and limitations”. We disagree. The notice provided an overview of the changes being proposed by the Tentative Determination, as well as easy access to our draft permit and fact sheet on our website. In addition, we provided a public hearing without requiring the public to request this. At the public hearing an overview was provided and an opportunity for the public to ask questions was provided. The first 9 pages of the fact sheet go to great lengths to describe the classes of discharges that are covered by the permit. In addition Appendix A of the permit layout specifically what facilities are covered by the permit, and pages 4 – 7 of the permit describe the eligible discharges from these facilities.

Based on our review of the language from both documents, we believe that they provide the requirements laid out in the regulation.