

STATE OF MISSOURI  
DEPARTMENT OF NATURAL RESOURCES

Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

[www.dnr.mo.gov](http://www.dnr.mo.gov)

JUN 17 2016

Mr. Robert Brundage  
Newman, Comely, Ruth  
601 Monroe Street  
P.O. Box 537  
Jefferson City, MO 65102

Dear Mr. Brundage:

This letter is in regards to the Department of Natural Resources' proposed Agrichemical Master General Template modification. The department received your comments, dated May 9, 2016, in response to the public notice process for the proposed Agrichemical Master General Template MOR240000. Each comment or a summary of the comment, and the department's response are provided below.

COMMENT #1: Previous permits included numerous agrichemical related definitions that have been deleted. We suggest they be reinserted into the permit.

RESPONSE: The definitions were removed to shorten the permit. All definitions are in 10 CSR 20-2.010. No changes were made as a result of this comment.

COMMENT #2: Table A-2 imposes benchmarks one year after the effective date of the permit Mo-Ag requests that the benchmark monitoring go into effect two years after the effective date to allow sufficient time for the establishment and implementation of best management practices (BMP) and sampling protocols. Table A-2 also includes benchmark values for Chemical Oxygen Demand (COD) the Total Suspended Solids (TSS). The fact sheet states these values are based on other stormwater permit and the values are similar but does not justify them or explain how they are similar. There is also a benchmark for pH which incorporates a Water Quality Standard (WQS). Mo-Ag is not aware of the department having research to suggest that the pH benchmark may be met at the edge of operating containment areas that is far removed from waters of the state.

Mr. Robert Brundage  
Page Two

RESPONSE: The department concurs with the comment regarding the effective date of benchmark monitoring and has changed the effective date to two years after the date of issuance. Exceedance of a benchmark is not a violation; failure to take corrective action as a result of an exceedance is a violation. This allows facilities to expand or add new BMPs as a result of an exceedance without incurring a violation. The following general permits have the same benchmark effluent limitations for COD, TSS, and pH:

- MOR22A000 – Lumber and wood primary
- MOR22C000 – Lumber and wood secondary
- MOR80H000 – Solid waste transfer

The following permits have more stringent benchmark effluent limitations for COD (90 mg/l) and TSS (50 mg/l):

- MOR23A000 – Chemical manufacturing
- MOR23D000 – Plastics and rubber manufacturing

In the absence of data the department can set Water Quality Standards as a benchmark effluent limitation. The permit does allow for permittees to demonstrate to the department if a benchmark is not technologically achievable or economically practicable.

COMMENT #3: Applicability 1. The words at the beginning of the second to last sentence “At such time...” should be clarified. Mo-Ag suggests deleting “At such time” and inserting “Once 10 CSR 20-8.300 is revised.” For clarity the last sentence should be rewritten as follows: “Discharges of process wastewater are not authorized.”

RESPONSE: The department concurs that the language of the referenced paragraph can be confusing. Therefore, the language of the referenced paragraph has been changed to read, “This permit applies to agrichemical facilities with primary SIC Code of 287X. This permit is also applicable to agrichemical facilities with a primary SIC Code of 5191 and these facilities must maintain permit coverage until 10 CSR 20-8.500 is amended to remove the requirement for all agrichemical facilities to have an operating permit. When the amended regulation becomes effective, agrichemical facilities with a primary SIC Code of 5191 may continue voluntarily coverage or request termination of permit coverage. Discharges of process wastewater are not authorized.”

COMMENT #4: Applicability 12, Mo-Ag requests that “manufacturing or” be inserted in the first sentence after “fertilizer” to cover the lawful land application of rinsate from manufacturing activities.

RESPONSE: The suggest language has been added as requested.

Mr. Robert Brundage  
Page Three

COMMENT #5: Applicability 13, this sentence should be rewritten as follows: “~~This permit may not be issued to any agrichemical facility unless all~~ [S]pill of bulk agrichemical in any secondary containment area or operation containment ~~are~~ must be properly removed and may not be discharged.”

RESPONSE: The intent of this paragraph is that a permit will not be issued to a facility where spills of agrichemicals have not been properly cleaned up. No change was made as a result of this comment.

COMMENT #6: Special Requirements 2 and 3. We suggest paragraphs 2 and 3 be deleted because they have no relevance to this permit and attempt to inappropriately incorporate into a water permit requirements from other federal environmental laws. Compliance with these other federal environmental laws is otherwise required and should not be incorporated into the requirements of this permit. Doing so would only serve to cause confusion and duplication.

RESPONSE: Special Requirement 2 is the General Criteria Water Quality Standards in 10 CSR 20-7.031 and is applicable to all point source discharges. Special Requirement 3 is in 40 CFR 122 and is applicable to this category of NPDES permit. No change was made as a result of this comment.

COMMENT #7: Special Requirement 5. The permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP) within 90 days of the permit issuance. Since this is a new requirement and there is no guidance on how to prepare SWPPPs for these operations, Mo-Ag request that the SWPPP be required to be developed and implemented 18 months after permit issuance.

RESPONSE: Language of this requirement has been changed to allow eighteen (18) months for the development and implementation of a SWPPP. An Environmental Protection Agency (EPA) guidance document is listed both in the permit and the SWPPP portion of the fact sheet for permittees to use.

COMMENT #8: Special Requirement 5(a). This paragraph says that BMPs at the facility should be designed to meet benchmark requirements during a rainfall event up to the 10 year, 24 hour rain event. Mo-Ag is not aware of any research or investigation done to correlate whether existing and known BMPs will result in meeting the benchmarks set forth in the permit, and certainly not for a rainfall event of the 10 year, 24 hour magnitude. If the department knows of such BMPs, we recommend they be described in the Fact Sheet.

RESPONSE: The language requiring benchmark BMP to be designed to the 10 year, 24 hour rain event has been removed from the permit. Site characteristics vary from one facility to and BMPs should be designed specific to each facility. Should a benchmark exceedance occur as a result of a precipitation event that exceeds the design of a BMP the facility may demonstrate that the benchmark is technologically achievable or economically not feasible.

Mr. Robert Brundage  
Page Four

COMMENT #9: Special Requirement 6. Paragraph 6(a)(1) requires operational containment area “be cleaned daily when loading, unloading, or mixing occurs.” If the containment is not dirty or does not have any contamination, the containment does not need to be cleaned. Therefore, we suggest this requirement be revised to require daily cleaning only when necessary.

RESPONSE: 10 CSR 20-8.500(7)(C)5 and (D)5 requires daily cleanup of loading, unloading and mixing areas for dry fertilizer and pesticides. Special Requirement 14(c) outlines requirements for operational containments that are seasonally used. This would suspend the daily clean-up and benchmark sampling. No change was made as a result of this comment.

COMMENT #10: Special Requirement 6(f-g). This revision requires sediment and erosion control to prevent sediment loss off the property. This permit is an agrichemical permit, not a sediment control permit. Therefore, this provision should be removed from the permit. Subparagraph (g) refers to “storage basin.” Is a storage basin a secondary containment? This is unclear.

RESPONSE: Sediment eroding from unstabilized areas of a facility can contribute to the benchmark parameter of TSS. If the benchmark of TSS is not exceeded then BMPs for sediment control are not required. To provide clarification the language in subparagraph 6(f) has been changed to read, “Provide sediment and erosion control, if needed, to comply with benchmarks. This could include the use of straw bales, silt fences, or sediment basins.” The department concurs the term “storage basin” may be confusing. Therefore, the language of subparagraph (g) has been changed to “Ensure that adequate provisions are provided to prevent surface water intrusion into secondary containments and to protect earthen embankments of secondary containments from erosion.”

COMMENT #11: Special Requirement 8. This paragraph threatens criminal prosecution for knowingly submitting false reports to the state. This provision is totally inappropriate and the first time I have ever seen this in a NPDES permit. The permit should merely state the requirements, nothing more.

RESPONSE: The referenced language has been deleted form the permit. However, it is a violation to falsify reports and is subject to criminal prosecution.

COMMENT #12: Special Requirement 10. The last sentence of this paragraph should be deleted in its entirety or further clarified to apply to the stormwater sample only. The permitted site should not be responsible for the pollutants discharged from neighboring facilities. The last sentence of this paragraph implies that the permitted site would have a responsibility to ensure off-site neighboring properties do not pollute.

Mr. Robert Brundage  
Page Five

RESPONSE: Permittees are not responsible for pollutants that do not originate from their facility. It is their responsibility to determine if pollutants for neighboring or upstream sites are contributing to the level of pollutants being discharged from their facility. In response to this comment the language in the last sentence of Special Requirement 10 has been changed to read, "It is the facilities responsibility to determine if their stormwater discharge is being contaminated by off-site water."

COMMENT #13: Special Requirement 11. Mo-Ag suggest further clarification of this paragraph to explain that permitted sites are not required to establish stormwater outfalls inside of secondary or operational containment areas from which there is no discharge. We suggest adding the following to accomplish this clarification. "Furthermore, stormwater outfalls do not need to be established inside of secondary and operational containment areas from which there is no discharge and therefor have no sampling requirements."

RESPONSE: The language of Special Requirement 11 has been changed to read, "Stormwater outfalls that do not receive stormwater from secondary or operational containment areas have no sampling requirements." In addition language has been added to the first sentence in Special Requirement 13 and now reads, "The following is required for all secondary containments for which stormwater discharges are authorized:" Special Requirement 14 only requires benchmark sampling for uncovered operational containment areas.

COMMENT #14: Special Requirement 14(b). The next to the last sentence of this subsection states the CAR demonstrations "must show that the benchmark is not feasible because no further pollutant reductions are technically available or economically practicable in light of best industry practices." We suggest deleting the word available so the sentence would only require showing that reductions are "technologically or economically practicable." It could be argued that a technology would be "available" under any circumstance if it exists. The threshold for showing that the benchmark is not feasible should be limited to practicability.

RESPONSE: The facility must demonstrate that there is no technology "available" to reduce pollutant levels. If there is technology available then they must also demonstrate that it is not economically practicable to implement the technology. No change was made as a result of this comment.

COMMENT #15: Special Requirement 14(c). The last sentence requires reporting no-discharge in the log of clean-up activities must be **submitted** with the report. (Emphasis added.) Instead of submitted, should this be "included"?

RESPONSE: These word "submitted" and "included" in this context are synonymous. No change was made as a result of this comment.

COMMENT #16: Special Requirement 14(d). This subparagraph refers to a "flow-through BMPs." What is a flow-through BMP? Should this refer to operational containment?

Mr. Robert Brundage  
Page Six

RESPONSE: Flow-through BMPs allow stormwater to pass through while removing and retaining pollutants. No change was made as a result of this comment.

COMMENT #17: Fact sheet, page 6. The discussion of benchmarks for phosphorus and nitrogen state that the benchmark “will be implemented”. However, there is no benchmark value but monitoring only. Therefore we suggest the sentences be rewritten and combined to say that the benchmark “will not be implemented but monitoring will be required.”

RESPONSE: This permit does implement a benchmark value of monitoring only for Total Nitrogen and Total Phosphorus. The department concurs the language in referenced paragraphs may be confusing. Therefore the language of the last two sentences of those paragraphs has been changed and now reads, “Monitoring only will be implemented for this parameter.”

We thank you for expressing your comments and concerns. This response to comments will be posted to the department’s website at: <http://dnr.mo.gov/env/wpp/permits/issued/wpcpermits-stormwater.htm> on June 17, 2016. If you have any questions, please contact Mr. Greg Caldwell of my staff at (573) 526-1426 or by mail at the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176.

Sincerely,

WATER PROTECTION PROGRAM



Chris Wieberg, Chief  
Operating Permits Section

CW:gcs