

State of Mississippi
Mississippi Department of Environmental Quality (MDEQ)
Office of Pollution Control
Environmental Permits Division

MINING STORM WATER, DEWATERING, and NO DISCHARGE GENERAL PERMIT 2023 RE-ISSUANCE FACT SHEET

SUMMARY

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA) which required the Environmental Protection Agency (EPA) to develop a phased approach to regulate storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on the first phase on this program on November 16, 1990, establishing permit application requirements for storm water discharges associated with industrial activity.

EPA defined the term “storm water discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of facilities. This definition greatly expanded the number of industrial facilities subject to the NPDES program. Mineral industries that discharge to waters of the U.S. are defined as an “industrial activity” per 40 CFR 122.26(b) (14) (iii).

Further, under Miss. Code Ann. §§ 49-17-17 and 49-17-29, the operation of a treatment works from which no discharge occurs requires an individual or general permit issued by the Permit Board. Mississippi Department of Environmental Quality recognizes that no-discharge gravel washing operations are subject to this state permit requirement. Additionally, activities covered under this general permit may also include borrow areas used for singular or multiple construction projects that meet the definition of surface mining under 11 Miss. Admin. Code, Part 8.

INTRODUCTION

This fact sheet sets forth MDEQ’s rationale for the permit conditions contained in the 2023 reissuance of the Mining Storm Water, Dewatering, and No Discharge General Permit. MDEQ has been authorized by the U.S. Environmental Protection Agency to administer the National Pollutant Discharge Elimination System (NPDES) Program in the State of Mississippi, including the issuance of general permits to categories of discharges under the provisions of 40 CFR 122.28, as adopted by reference in the Mississippi Wastewater Regulations for National Pollutant Discharge Elimination System (NPDES) Permits,

Underground Injection Control (UIC) Permits, State Permits, Water Quality Based Effluent Limitations and Water Quality Certification (11 Miss. Admin. Code Pt. 6, Ch. 1.). Under this authority, MDEQ may issue general permits for a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. Specifically, MDEQ is authorized to issue a general NPDES permit if there are a number of point sources operating in a geographic area that:

1. involve the same or substantially similar types of operations;
2. discharge the same type of wastes;
3. require the same effluent limitations or operating conditions;
4. require the same or similar monitoring requirements; and
5. in the opinion of the Mississippi Environmental Quality Permit Board (Permit Board) are more appropriately controlled under a general permit than under individual permits.

As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Mississippi Air and Water Pollution Control Law (Section 49-17-1 et seq., Mississippi Code of 1972) and subjects the discharger to the penalties specified therein. Upon promulgation of the final general permit for this type discharge, owners/operators qualified for coverage are authorized to discharge under this general permit.

This permit replaces the current Mining Storm Water, Dewatering, and No Discharge General Permit that expired on March 31, 2023. This general permit will expire five (5) years from the effective date of the permit.

GENERAL PERMIT CHRONOLOGY

The proposed permit is the fifth issuance (fourth renewal) of the Mining Storm Water, Dewatering, and No Discharge General Permit. The initial Mining Storm Water General Permit was issued on November 10, 1992 and expired on November 9, 1997. The permit was administratively extended by MDEQ per the conditions of the permit, and it was subsequently reissued in 2007 as the Mining Storm Water, Dewatering, and No Discharge General Permit reissued again in 2012 and 2018.

ELIGIBLE DISCHARGES

This general permit authorizes mining storm water and dewatering discharges and operation of wastewater recirculation systems with no discharge. Dewatering discharges are authorized in areas that are subject to excavation activities in pits not receiving any process wastewater from washing activities or accumulated water from either stormwater or groundwater. Expected pollutants in allowed discharges are primarily sediment resulting from excavation, handling, storage, and transport of earthen materials. National Pollutant

Discharge Elimination System (NPDES) storm water discharge permits will be required for discharges associated with mining activities, listed in 40 CFR 122.26 (b) (14) (iii), that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw materials, intermediate products, finished products, byproducts or waste products located on the site. Coverage under this general permit is available to those active and facilities undergoing reclamation that have been previously covered by a general permit and/or individual NPDES permit and for proposed mining operations.

Mining operations include Standard Industrial Classification (SIC) 1442-Mining Sand and Gravel, SIC 1452-Bentonite –Manufacturing, SIC 1453 Fire-Clay Manufacturing, SIC 1455 Kaolin and Ball Clay and SIC 1459- Clay, Ceramic and Refectory Minerals. Authorized activities under this general permit also include borrow sites that require a permit under State Law.

A large percentage of coverages issued under this general permit are for borrow materials for construction projects. For purposes of this general permit, a borrow pit is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Borrow pits and soil harvesting sites are terms used in construction and civil engineering. They generally describe areas where soil is being dug for use at another location. Spoil piles are excavated materials consisting of topsoil or subsoils that have been removed and temporarily stored during the construction activity. Conditions under ACTS 1-6 of this general permit apply to stormwater discharges associated with industrial activity from borrow pits, soil harvesting sites and spoil piles. ACT 8 will only apply to borrow pits if there are approved dewatering activities at a borrow pit. ACT 7, which is associated with a process wastewater facility (i.e. gravel wash or sand dredge), does not apply to borrow pits.

Any dewatering activity approved under ACT 8 of this general permit requires that the effluent be routed through a series of controls prior to discharge into the receiving stream.

INELIGIBLE DISCHARGES

Discharges which include mine process generated wastewater or wastewater associated with dredging and/or washing operations are not covered under this permit. Discharges of process wastewater from dredging and/or washing operations are required to seek coverage under an individual NPDES permit. For the purposes of this general permit, mine process generated wastewater means any wastewater used in the slurry transport of mined material, wastewater generated from the dredging and/or washing of mined material, air emissions control (excluding water used for dust suppression on roads which is evaporated or absorbed by soils such that no runoff to a receiving stream occurs) or processing exclusive of mining. The term shall also include any other water that becomes commingled with such wastewater in a pit, pond, lagoon, mine or other facility used for treatment of such wastewater. The term does not include water used for the suction dredging of deposits in a body of water and returned directly to the body of water without being used for other purposes or combined with other wastewater.

This permit does not authorize discharges from any coal or metal mining activities. There are no discharges from types of facilities known to generate any acid mine drainage.

EFFLUENT LIMITATIONS WHICH REQUIRE MONITORING

In addition to narrative conditions, this general permit requires all covered facilities engaging in mine dewatering to monitor dewatering discharges annually for pH. The acceptable pH range remains 6.0 – 9.0 Standard Units and is based on 40 CFR 133.102(c) and 11 Miss. Admin. Code Pt. 6, Ch. 1.

For the types of facilities utilizing this permit, the product being mined is limestone, chert gravel, and sand. There are no active limestone quarries currently. Given the nature of the mined materials from the active facilities covered under this general permit, the need for further monitoring is not warranted.

Further, the permit has requirements to address the potential for pollution from exposed earthen areas to enter waterbodies through stormwater. The non-numeric effluent limits in general permit require facilities to minimize various types of pollutant discharges, or to implement control measures unless infeasible. These controls are intended to reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable considering best industry practices. Given that numerical effluent limitations are infeasible, these conditions are designed to reduce the level of effluent discharges to acceptable levels.

NOTICE OF INTENT

The MNOI shall include the facility owner's legal name, mailing address, work phone number and e-mail address (if applicable). The MNOI shall also include the facility name, physical address, and current NPDES permit number, number of discharge points and name of receiving stream. The Notice of Intent shall be submitted with the appropriate documents listed in the permit. If storm water will be discharged a SWPPP must be submitted. In addition, the owner must submit a copy of a USGS Quadrangle Map showing the site location and extending at least one-half of a mile beyond the site boundary. MDEQ will review each MNOI to determine eligibility under the general permit. MDEQ will review each existing individual NPDES permit to determine the discharge's eligibility for coverage under this general permit and notify all permit holders eligible for coverage. This notification will include a request that the owner submit a Mining Notice of Intent (MNOI).

ANTI-DEGRADATION PROVISION

The conditions of the permit reflect the goal of the CWA, EPA, and the State of Mississippi to achieve and maintain water quality standards. This general permit does not apply to any new or increased discharge to other waters unless the discharge is shown to be consistent with the State of Mississippi's anti-degradation policy. This determination shall be made in accordance with the appropriate anti-degradation implementation procedures. MDEQ will

not authorize these discharges under the general permit until it receives a favorable anti-degradation review.

PROCEDURES FOR THE FORMULATION OF FINAL DETERMINATIONS

Comment Period

Following review by EPA, The MDEQ will publish a notice in multiple newspapers across the state concerning the reissuance of this general permit and providing a 30-day comment period to the public. Papers with varying distribution areas in the state will be selected. The notice will provide the below address to which interested persons are invited to submit written comments on the permit application or on the Permit Board's proposed determinations.

Mississippi Department of Environmental Quality
Office of Pollution Control
P. O. Box 2261
Jackson, MS 39225

Additional details and a copy of the draft permit will be available to the public by request in writing to Florance Bass at the Permit Board's address or by calling 961-5171. All comments received prior to the end of the 30-day public comment period will be considered in the formulation of final determinations about the reissuance of this general permit.

Public Hearing

The Permit Board may hold a public hearing if there is a significant degree of public interest. Public notice of such a hearing will be circulated in multiple newspapers, as during the comment period, and to those on the agency's mailing list at least 30 days prior to the hearing.

Following the public hearing, the Permit Board may take such modifications in the terms and conditions of the proposed permits as may be appropriate and shall issue or deny the permit. Notice of issuance or denial will be circulated to those who participated in the hearing and to appropriate persons on the mailing list.

If no public hearing is held, and, after review of the comments received, the Permit Board's determinations are substantially unchanged, the permit will be issued and become effective immediately.

If no public hearing is held, but there have been substantial changes, public notice of the Permit Board's revised determinations will be made. Following a 30-day comment period, the permit will be issued and become effective immediately, unless a public hearing is granted.

SUMMARY OF CHANGES WITH 2023 RENEWAL

The Mining Storm Water, Dewatering, and No Discharge General Permit is proposed for reissuance with several revisions. The following paragraphs summarize the proposed revisions:

Re-organization of Permit

The permit layout was re-organized to make the permit easier to read and understand. The previous permit had ACTS 1-15. This reissuance has ACTS 1-8. ACTS 1-6 outline all the conditions that apply to all permit coverages. ACT 7 has specific conditions for wastewater recirculation systems with no discharge to surface waters. ACT 8 has specific conditions for mine dewatering activities.

The following chart reflects the changes in the reissuance reorganization:

ACT from Previous Permit	ACT in Reissuance
ACT 1	ACT 1
ACT 2	ACT 2
ACT 3	ACT 3
ACT 4	ACT 3
ACT 5	ACT 4
ACT 6	ACT 4
ACT 7	ACT 3
ACT 8	ACT 5
ACT 9	ACT 3
ACT 10	ACT 1
ACT 11	ACT 7
ACT 12	ACT 8
ACT 13	ACT 5
ACT 14	ACT 3
ACT 15	ACT 5

Electronic Record Keeping

Coverage recipients will still be required to complete the inspection reporting form and maintain it onsite with the SWPPP. These documents shall be made available to MDEQ during routine on-site compliance inspections. These documents may be stored and provided electronically.

Electronic Submittal Updates

Made the following changes in regards to electronic submittals:

- Provided ability to send electronic submittals through MDEQ website.
- Added necessary electronic submittal requirements from 40 CFR 127.16.

Condition Changes

- Clarified activities that require submittal of a Major Modification Form (ACT 3 S-6(2))
- Allowing for submission of color photographs showing stabilization with submission of a Notice of Termination Request (ACT 3 S-8)
- Replaced references to hay bales with straw wattles (ACT 4 T-3)
- Changed requirements for temporary or permanent vegetated practices for implementation within 7 days to immediately (ACT 4 T-4(2))
- Changed requirements of construction entrances (ACT 4 T-4(4))
- Required sediment barrier be placed along all downgradient perimeter areas prior to beginning mining activity and be maintained through out the span of the regulated activities (ACT 4 T-4 (5) and T-6)

Definition Additions

Added definitions for the following terms:

Definition	Description
T-1	Reference to definitions in 11 Miss. Admin. Code Pt. 6, Ch.1, Subch. 1, Section I.A
T-10	Hazardous Substances
T-18	Normal Working Hours
T-21	Process Wastewater
T-22	Severe Property Damage
T-23	Significant Materials
T-24	Significant Spill or Leak
T-28	Submitted
T-30	Toxic Pollutants

Definition Removal

Removed the following definitions were removed from the previous permit:

Definition	Description
T-4	Covered by the new T-1
T-5	Covered by the new T-1
T-6	Covered by the new T-1
T-10	Not subject to general permit requirements
T-21	Not subject to general permit requirements
T-30	Covered by the new T-1
T-31	Not subject to general permit requirements

Administrative Revisions

Made the following administrative revisions:

- Updated language of several standard conditions to be more consistent with other Mississippi NPDES general permits.
- Relocated several conditions within ACTs for better flow and to maintain consistency of structure with other Mississippi NPDES general permits.
- Changed dates specified (i.e., deadlines, expiration dates, etc.) to reflect those applicable to renewal permit.
- Corrected miscellaneous typographical errors.

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