



## Response to Comments

**Project: General Permit Authorization to Discharge Wastewater and Storm Water from Coal Surface Mining Activities under the National Pollutant Discharge Elimination System (NPDES Permit No. OHM000003)**

### **Agency Contact for this Project**

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Ohio EPA held a public hearing on March 8, 2007 regarding the draft general permit. This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on March 15, 2007.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health. Often, public concerns fall outside the scope of that authority. For example, concerns about zoning issues are addressed at the local level. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

**Comment 1: Total dissolved solids, chlorides and sulfates are pollutants contained in discharges associated with coal surface mining activities and can cause aquatic toxicity in small streams; therefore, the general permit should include water quality based effluent limitations for those parameters.**

**Response 1:** In the case of chlorides and sulfates Ohio does not have aquatic life water quality criteria for either parameter. There are water supply water quality criteria that apply 500 yards or less upstream from an intake for a water supply plant. The general permit has been modified to exclude mines that would propose to discharge within 500 yards upstream from such intakes. In those situations the mine operator will be required to pursue an individual NPDES permit with conditions that are protective of the water supply.

In the case of total dissolved solids, Ohio's Water Quality Standards do contain a criterion that can be expressed as either Total Dissolved Solids or Specific Conductance. Ohio EPA has revised the general permit to require regular monitoring of Specific Conductance by permittees. During the next renewal cycle of the permit this data will

be reviewed to determine potential water quality concerns and whether to include a water quality based effluent limitation in the permit.

**Comment 2:** **The title of permit refers solely to wastewater associated with coal surface mining activities thereby causing confusion as to whether storm water discharges are authorized by the permit. A request was made to revise the title of the permit.**

**Response 2:** The title of the permit has been revised in response to the request. The eligibility section (Part I.B) of the permit did and continues to state that coal surface mining discharges regulated by 40 CFR 434 (wastewater) and 40 CFR 122.26 (storm water) are authorized by the permit.

**Comment 3:** **There was concern expressed about increasing overlap between the NPDES permitting program (section 402 of the Clean Water Act), water quality certifications (section 401), and authorization to discharge fill into waters of the United States (section 404). In particular, rules Ohio EPA proposed in 2006 (OAC 3745-32-02) were highlighted that would continue this trend of blurring the lines between the different programs. It was suggested that additional language be added to the permit to clarify that operations covered by the NPDES permit would automatically be considered to have a 401 certification if one was required.**

**Response 3:** The draft rules cited in the comment were re-drafted as of September 12, 2008. Currently, comments are being accepted on the draft rules. As a delegated state, when Ohio EPA issues an NPDES permit it is 401 certified, in compliance with state water quality standards, for the authorized discharges; but that does not mean other activities at the site such as placing fill in waters of the United States are authorized by the NPDES permit. Therefore, the permit has not been revised as requested.

**Comment 4:** **Add a definition for storm water outfall. The following was suggested: "the point at which storm water is generated is associated with an industrial activity discharges to waters of the state."**

**Response 4:** The permit basically regulates two types of discharges. The first is water that comes into contact with coal and associated material as mining is being conducted. Contaminated water or wastewater from these operations is sent for treatment and then discharged. These discharges are monitored for compliance with effluent limitations through the reclamation phase of the site; these requirements are contained in Part III.A of the permit. The second type of discharge is storm water not directly associated with the actual mining but that may

come into contact with non-mining industrial activities at the site. The permit contains requirements to put into place pollution prevention measures to minimize storm water contamination from these other activities. The list of industrial activities that could contaminate storm water and are required to be considered are identified in Part IV of the permit. Therefore, the suggested definition was not added because it was not thought to clarify what is already in the permit.

**End of Response to Comments**