



Division of Surface Water Response to Comments

Project: General Permit Authorization for Discharges Associated with Coal Surface Affectment Activities

Ohio EPA ID #: OHM000004

Agency Contacts for this Project

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Ohio EPA held a public hearing on May 4, 2016, regarding the draft General Permit Authorization for Discharges Associated with Coal Surface Affectment Activities. This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on May 11, 2016.

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.

The comments are grouped by topic and organized in a consistent format.

Total Filterable Residue (Dissolved Solids)

Comment 1: U.S. EPA – “EPA recommends that Ohio EPA include one table in the proposed general permit that imposes an effluent limit for TDS on all eligible discharges to all waterbodies except those designated as Limited Resource Water.”

Comment 2: USFWS – “We believe that it is important that Ohio EPA set numeric limits for total dissolved solids (i.e., residue, total filterable)... Therefore, we recommend that the two effluent limit tables in OHM000004 be combined into a single table applicable to all discharges.”

Response 1 & 2: Ohio EPA will be proposing a general permit for No Reasonable Potential for TDS and another for discharges With Reasonable Potential for TDS. There will also be a proposed general permit for Re-Mining. The procedure for determination of whether a discharge has RP for a high TDS discharge or not is included in Part I-C-3 of the permit.

Comment 3: **OEC-SC – “...OEPA must require a TDS/Conductivity WQBEL and monitoring requirements in this general permit, and must require them for all applicants and all outfalls.”**

Response 3: Ohio EPA has included a reasonable potential determination procedure for all applicants. See response 1 above.

Comment 4: **OEC-SC – “A new U.S. EPA conductivity guidance is expected to be published shortly. The guidance that was published for the Appalachian region indicated that a level of 300 uS/cm was appropriate. Accordingly, OEPA should include a more stringent and therefore more scientifically appropriate TDS limit in this general permit. This could be a numeric interpretation of Ohio’s narrative aquatic life toxicity standard.”**

Response 4: Ohio EPA reviewed the published guidance and determined that it was not applicable to Ohio. Many biologically healthy waters in Appalachian Ohio have conductance values greater than this value; this appears to be due to stream alkalinity values for Ohio that are higher than those in West Virginia and Kentucky.

Ohio EPA has a current water quality standard for TDS. See response 1 above.

Impaired Waters

Comment 5: U.S. EPA – “EPA recommends that Ohio EPA revise the draft general permit to exclude discharges to waters impaired by pollutants typically discharged from coal mining operations from eligibility for coverage under the permit. By an impaired water, EPA means those that have been identified by Ohio EPA or EPA pursuant to section 303(d) of the CWA as not meeting applicable state water quality standards, regardless of whether a total maximum daily load has been established and/or approved for such a water.”

Response 5: Discharges that Ohio EPA determines have the reasonable potential (RP) to cause or contribute to a violation of water quality standards may be eligible for the general permit for discharges with total dissolved solids reasonable potential. Applications for discharges to mining impaired waters will be evaluated to determine if they have the RP to cause or contribute to the specific impairment. If so, Part V.F. of the general permit states the Director may require any person to obtain coverage under an individual permit instead of granting coverage under the general permit.

Comment 6: OEC-SC – “Discharges to waters that are impaired due to pollutants typically discharged from coal mining operations should be excluded from coverage in the general permit. The only reasonable exception to this requirement might be remining of pre-SMCRA degraded sites (not including virgin areas under the Corps’ “40/60 Rule”).”

Response 6: Ohio EPA is developing a remining general permit exclusively for remining sites. See response 5 above.

General Metals and Selenium Monitoring

Comment 7: OEC-SC – OEPA should include a Selenium limit and monitoring requirement in this general permit.

Comment 8: U.S. EPA – “EPA recommends that Ohio EPA include monitoring requirements for selenium, as well as aluminum, barium, boron, cobalt, magnesium, molybdenum, tin, titanium, antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, silver, thallium, and zinc at appropriate frequency and analytical sensitivity.”

- Comment 9:** OEC-SC – “The following Metals should be monitored on a monthly basis: Aluminum, Barium, Boron, Cobalt, Iron, Magnesium, Molybdenum, Tin, Titanium, Antimony, Arsenic, Beryllium, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, Thallium, and Zinc.”
- Comment 10:** USFWS – “We believe that it is important that Ohio EPA...require monitoring of metals that may be present in surface mine runoff (e.g., aluminum, selenium, copper, nickel, cobalt).”
- Response 8-10:** The US EPA Effluent Limit Guideline (ELG) database does not distinguish between surface mining, underground mining and coal refuse disposal; therefore, the applicability of that data to surface mine discharge is uncertain. A review of Ohio’s effluent and stream chemistry associated with surface mine discharges indicates that cobalt, aluminum and selenium are the metals which have data indicative of their presence in surface mine discharge. Monitoring requirements for these metals have been included in the general permit.

Chloride and Sulfate Monitoring

- Comment 11:** OEC-SC – “OEPA should include a numeric limit on Sulfate and Chloride in the general permit as an interpretation of Ohio’s narrative aquatic life toxicity standard.”
- Response 11:** Ohio EPA has included monthly monitoring for sulfate and chloride in the general permit. Should a discharge be determined to have the reasonable potential for toxicity, it is ineligible for the general permit.

Whole Effluent Toxicity

Comment 12: U.S. EPA – “EPA recommends that Ohio EPA modify the draft general permit to include monitoring and limitations for acute and chronic toxicity. Ohio EPA should specify that the testing be conducted using Fathead minnows and *Ceriodaphnia dubia* and pursuant to the approved methods listed in 40 CFR Part 136. Because the discharges that would be authorized under this general permit are assumed to be to streams with no available dilution, the limit should be 1.0 toxic unit for both the chronic and acute exposures.”

Response 12: Ohio EPA has included a reasonable potential analysis procedure in Part I of the general permit; monitoring of chloride, sulfate, and TDS for all discharges. These data are indicators of toxicity for coal mine discharges. The data reported under the current coal general permit does not support the need for acute and chronic toxicity monitoring or toxicity specific limits. Discharges that have the reasonable potential to have toxicity are excluded from general permit coverage.

Comment 13: OEC-SC – “OEPA should require the submission of bioassays. Each applicant should submit a bioassay with the NOI and once during the life of the permit. Doing so will help provide a baseline picture of aquatic life health and evidence of problems, should they occur.”

Response 13: Ohio EPA is requiring for all non-remining areas and remining areas that have the potential to affect waters not impaired by acid mine drainage and have an average PEQ greater than or equal to the WQS for TDS, to submit 6 or more samples of TDS or conductance data. This is included on page 4 of the general permit for the Reasonable Potential Procedure. See response 12 above.

Alternative Table Limits

Comment 14: OEC-SC – “In addition, the three Alternative Tables do not contain limits for pH and TDS. All three of these tables (Tables 3, 4, and 5) should include limits for both pH and TDS.”

Response 14: Alternative Tables 2, 3, and 4 do have limits for pH. Limits for settleable solids in Alternative Tables 2 and 3 are included instead of TSS limits as per 40 CFR Part 434 Subpart F. Alternative Table 4 includes all parameters required per 40 CFR Part 434 Subpart F.

Eligibility of Discharges from Coal Refuse Piles

Comment 15: U.S. EPA – “EPA recommends that Ohio EPA list discharges from all coal refuse piles as ineligible for coverage, because discharges from coal refuse piles can contain high concentrations of TDS, sulfate, and some metals.”

Response 15: The discharges from coal refuse piles are not covered in the general permit; only activities related to the construction of coal refuse sites are eligible for coverage. See Part I-B-2.

Specificity of the Monitoring Requirements

Comment 16: U.S. EPA – “EPA recommends that Ohio EPA revise the notes to the Limits and Monitoring Tables to require monitoring when there is an active discharge.”

Response 16: Ohio EPA has added language to the tables to specify when a sample is required and under what circumstances.

Comment 17: OEC-SC – “The general permit should specify that sampling must occur during discharge. Otherwise, permittees may conduct sampling when discharges are not occurring. Language in the permit should specify that a finding of “no discharge” may only be reported when no discharge has occurred during an entire sampling month.”

Response 17: See response 16.

Antidegradation

Comment 18: OEC-SC – “A general permit cannot be issued under the antidegradation rules (or OAC 3745-38-02(I)(a)) without limits in the permit sufficiently stringent that no discharge complying with the permit could have more than a de minimus effect on water quality unless the permit allows for an individualized assessment of whether the discharge is necessary to accommodate important social or economic development.”

Response 18: Ohio EPA is utilizing a reasonable potential procedure to identify potential discharges that have, or would have, a negative effect on water quality.

Public Notice

Comment 19: OEC-SC – “OEPA should provide public notice of all NOI applications under this general permit.”

Response 19: NOIs are not public noticed. The general permit is public noticed. No general permit in Ohio has public notice for NOIs.

End of Response to Comments