



**Indiana Department of Environmental Management
Office of Water Quality
Surface Water, Operations, and Enforcement Branch
Wetlands and Storm Water Section
Storm Water Program**

**Conversion of 327 IAC 15-5 to a Master General Permit
Advisory Group
August 31, 2017**



Advisory Group:

Role: Function as a resource to gather input and feedback on the draft General Permit prior to beginning the official process

Purpose: Derive best possible General Permit for Indiana

Process: IDEM is willing to meet with stakeholder groups at additional meetings to discuss their comments on the draft permit



Advisory Group:

Participation ground rules:

- Only one organizational representative should be the spokesperson for their group
- Only one person speaks at a time
 - Side conversations must be kept to a minimum
- All ideas will be treated with respect
- Concentrate on addressing the issue with the item, do not focus on the person who has a different opinion



Incorporation of U.S. EPA requirements into the draft General Permit

- Items within the permit have been taken from the U.S. EPA Permit or were required to be incorporated as directed by U.S. EPA
- U.S. EPA requirements have been included in the draft permit in their entirety or in part (expanded) in a effort to clarify
- Gather additional comments and input on U.S EPA requirements and as warranted discuss with U.S EPA to allow modification to finalize a permit that is applicable to the needs of Indiana

Current activities being conducted by IDEM

- Process has begun to update specific storm water measures, related to requirements in the draft permit
- Development of an on-line system to submit NOIs and NOTs



Incorporation of U.S. EPA requirements into the draft General Permit

3.0 Performance Standards

- (c)(3) Natural Buffers
- (c)(4)
 - Sound engineering, agronomic, and scientific principles
 - Expected amount, frequency, intensity, and duration of precipitation
 - Range of soil particle sizes expected to be suspended in storm water run-off
 - The nature of storm water run-off and run-on, including factors such as expected flow from impervious surfaces, slopes, and site drainage features



Incorporation of U.S. EPA requirements into the draft General Permit

3.0 Performance Standards

- (c)(5)(A) Withdraw water from the surface column - basins
- (c)(5)(E) Use of polymers and flocculants – In federal permit, but not required (*MS4s have expressed interest*)
- (c)(11) Dust Management
- (c)(12) Minimize Soil compaction
- (c)(11) Preserve topsoil
- (c)(14) Direct storm water run-off to an established vegetated area to increase pollutant removal and maximize storm water infiltration



Incorporation of U.S. EPA requirements into the draft General Permit

3.0 Performance Standards

- (c)(15) Sediment tracking onto paved areas must be removed on the day which the tracking or deposition occurs/next business day
- (c)(19)(A) Stabilization requirements initiated by the end of the next work day (14 days and 7 days when discharging into an impaired water and/or TMDL)
- (c)(20)(A) Final stabilization: Establish uniform, perennial vegetation that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas
- (c)(21)(A) Application of fertilizers (items in the draft permit include 3 out of the 6 items in the EPA permit)



Incorporation of U.S. EPA requirements into the draft General Permit

3.0 Performance Standards

- (c)(22) Dewatering activities
- (c)(27)(A) 1) Self-monitoring inspection frequency based on 0.5 inch of rainfall or one-quarter (0.25) inch of rainfall for projects discharging directly to a water or an impaired water or with an EPA-approved TMDL
- (c)(27)(B) Self-monitoring – Purpose of evaluation
- (c)(27)(C) Self-monitoring – Content of report and corrective action timelines



1.0 General Permit Coverage

1.2(d) Non-storm water discharges

- Basis for this item is to identify discharges that would be allowed under the General Permit
- Comment Topics:
 - Fire fighting
 - Removal of pavement washing
 - Hydrodemolition discharges
 - Others



1.4 Fees (Application)

Comment Topics

- Exempt local government from application fees
- Others



2.0 Eligibility for Permit Coverage

Comment Topics – Introduction paragraph

- Concern over MS4 plan review fees – the state sets the terms for requiring a review as part of NOI submittal
- MS4s requirements are independently enforced. Is IDEM trying to enforce local ordinances
- Clarify that only MS4 storm water regulations are applicable to this permit and a MS4 should not be able to hold back a plan review for other types of permits such as grading and right-of-way
- Others



2.1 Permit Coverage

Comment Topics

- Definition of larger common plan too ambiguous
- Some MS4s regulate below 1 acre - in this scenario what does the state require
- Make clear that the permit does not trump more stringent policies from MS4s (less than one acre disturbed)
- Why is it one acre – consider .5 acre for disturbances associated with redevelopment
- Too ambiguous
 - Smaller projects that are part of a larger plan- would each get a permit or one overarching permit?
- Others



2.2 Exclusion from Permit Coverage

Comment Topics

- Topics to discuss
- (a)(2) Reconsider silviculture exemption or add CFR regulations
- (a)(3) Reconsider oil and gas exploration or add CFR regulations
- (a)(4) add (D) maintenance, reconstruction, and construction of County regulated drains
- Others



2.3 Waivers and Special Conditions

Comment Topics

- Communication with MS4s related to an emergency
- Too ambiguous - Is that intentional
- How/What is the Process
- Plan requirement
- Other



3.0 Performance Standards

Comment Topics - General

- How will criteria be measured
- Rework the entire section
 - Condense
 - Break apart into smaller sections
 - ❖ Post construction
 - ❖ Final Stabilization
 - ❖ Inspection Requirements
 - ❖ Corrective Actions
- Terminology – “maximum extent possible control” is more appropriate



3.0 Performance Standards

3(c)(3) “Natural buffers

Comment Topics

- Clarify area - 50 feet on each side of stream or total
- Remove buffer requirement from regulated drains
- Modify language to add “or equivalent erosion and sediment control measures
- “Preserve existing buffers regardless of width, up to 50 foot”
- Encourage planting new buffers
- Encourage revegetation/enhancement of existing buffers
- Intent – permanent (require easement) or temporary
- Infeasible – clarify
- Other



3.0 Performance Standards

3(c)(4) “Take into consideration the following”

Comment Topics

- Expected amount, frequency, intensity, and duration of precipitation – Expected?
- Range of soil particle sizes expected to be suspended in storm water run-off – Purpose
- Purpose of rainfall data
- Specify chemical use Basin vs Flow settings
- Other



3.0 Performance Standards

3(c)(5) Minimum performance standards

Comment Topics

- Not all requirements apply to all construction sites
- Guidance on chemicals (polymers)
- When specifying “Manufacturer” specifications – is IDEM regulating the manufacturer



3.0 Performance Standards

3(c)(5)(F) Minimum performance standards – Post-construction

Comment Topics

- Reduce TSS by 80%
 - Guidance
 - Baseline- before and after
- Consider removing post-construction from the permit
- Consider removing two measures, if one will meet the reduction goals
- Consider special circumstances: wellhead protection areas, superfund sites, basement flooding, aquifers
- Other



3.0 Performance Standards

3(c)

Comment Topics

- (6) Consistency with local, state, federal laws
 - Post-construction?
 - Impact on performance standard
- (7) Collected run-off discharge
 - “Common enemy doctrine”
 - Drainage to public drain, county regulated drain, mutual drain, natural surface water
- (8) Channel and Swale design
 - Design criteria for MS4s that don’t already have them
 - Criteria directed by topography and engineering



3.0 Performance Standards

3(c)

Comment Topics

- (9) Appropriate measures
- (10) Phasing to minimize footprint
 - Who decides Economic feasibility
- (11) Generation of dust
 - Remove generation of dust - Point source
 - Add Tracking
- (12) Soil compaction to be minimized
 - Design dictates soil compaction not permit



3.0 Performance Standards

3(c)(13) Topsoil preservation

Comment Topics

- Remove requirement or restate “Every effort will be made...”
- Removal, replacement – what is the standard
- Who decides
- How much
- Request minimum of 6 inches of topsoil standard for all disturbed areas
- Quality before and after
- Define “topsoil”



3.0 Performance Standards

3(c)

Comment Topics

- (14) Where applicable direct storm water to vegetative area
- (15) Roadways kept clear
 - Add all paved surfaces, parking lots
 - Inlet protection
 - Tracking- minimum clearing
 - Replace “On the day the tracking occurs” with “within 24 hours of when the tracking or deposition occurs”
- Other



3.0 Performance Standards

3(c) Comment Topics

- (16) Restore/clean sediment impacted areas
 - As directed by whom
 - Plan submittal - review/approval needed
- (17) Stable construction entrance
 - Remove “Alternative measures include...”
- (18) All management practices must be in working order
- Other



3.0 Performance Standards

3(c) Comment Topics

- (19) Idle areas must be temporarily or permanently stabilized
 - Item (19) (A) & (B) – Use existing Rule 5 language
 - Does this include sheet flow
 - Variable and flexible schedule is unrealistic
 - 70% native cover or density
 - Consider 70% density of turf and 100% coverage of site
 - ❖ Native/specialty plantings need separate standards
 - ❖ Some BMPs should include 100% coverage w/ mulch or blanket
 - ❖ Planting must meet final designation function and require long-term maintenance commitments



3.0 Performance Standards

3(c) Comment Topics

- (20) Final Stabilization
 - Seeding on farmland
 - Consider the requirements in the Ohio Permit
- Other



3.0 Performance Standards

3(c) Comment Topics

- (21) Fertilizer
 - Manufacturer specifications – state regulating manufacturer specifications
 - Reference Indiana Stormwater Quality Manual
 - Caution use of fertilizer in floodplain/floodway
 - Require soil test
 - Require weather check
- (22) Dewatering Effluent
 - All dewatering effluent must be treated using BMPs regardless if sediment-laden or not
- Other



3.0 Performance Standards

3(c) Comment Topics

- (23) Minimize or eliminate wastes
 - Add mortar and material mixing operations
 - Add groundwater infiltration
- (24) Waste disposed of in covered receptacles
 - Pollutants of concern?
 - Remove “and covered when not in use”
 - Define “domestic waste”
- Other



3.0 Performance Standards

3(c) Comment Topics

- (25) Identify truck washout areas
 - Run-on?
 - Mortar and washout should be included
- (26) Proper handling and storage of materials
 - Add masonry to list
 - Preventing discharge?
 - Control spills?
- Other



3.0 Performance Standards

3(c)(27) Monitoring

Comment Topics

- Add provision for unsafe conditions
- When/where/how will the information be submitted
- Create a state wide inspection form
- Reconsider the acronym “SWAPP”
- Sampling after rapid snow melt
- Weekly inspections has been omitted from the permit
- Require contractor signature
- Other



3.0 Performance Standards

3(c) Comment Topics

- (28) Inform on-site personnel...
 - Minimum erosion control training
 - “Recommendation”= optional
 - Remove “conditions & standards”
- (29) Post notice
 - Near main entrance or central location?
 - Require owner, SWQM, and Superintendent contact information



3.0 Performance Standards

3(c) Comment Topics

- (30) Project management log
 - Constantly changing jobsite makes this difficult
 - Purpose (EPA requires update of SWPPP)
 - Look at requirements



3.0 Performance Standards

3(c) Comment Topics

- (31) Qualified individuals
 - Should be streamlined
 - Definition (*discuss in definition Section*)
- (32) Maintain plans and supporting documentation
- (33) Retain records for three (3) years
 - Records of what
 - Require inspection and corrective reports



3.0 Performance Standards

3.1 General Performance Standards – Residential Building Sites

3(a) Comment Topics

- Define “individual lot owner”
- Can overall developer authorize a sub
- Inlet protection requirement
- What pollutants are main concern with trash
- Require stabilization during winter
- Homeowner should not be left responsible for erosion and sediment control measures



4.1 Plan Submittal

Comment Topics

- Consider utilization of the terms construction plan and SWPPP
- Who and in what case would IDEM designate another entity



4.2 Plan Review

Comment Topics

- MS4s should be required to comply with 28-day plan review timeline
- Plan reviewer qualifications
- Land disturbance without acceptable plan
- Giving enforcement more “teeth”
- 14 day resubmittal - They should not start until they have a proper plan
- Limit amount of waivers for plan reviews



5.0 Notice of Intent

5.2(d) Submittal deadlines

Comment Topics

- New projects - continue to use 48-hours prior to disturbance
- Cost of compliance for in progress construction would be immense
- Projects with existing coverage when General Permit becomes effective - action within 90 days following the date the NOI form is made available (90 days not feasible)
 - Submit a NOI
 - Submit a NOI-Continuation of Coverage
 - Terminate, if eligible



5.0 Notice of Intent

Submittal deadlines

Comment Topics

- 5.4 NOI Amendments
 - What Information is required
 - What is allowed in an amendment
- 5.5 Submitting the NOI and Processing Fee
 - “wet-ink” signature
 - Automated system
- 5.6 NOI Review
 - “Upon notification, land disturbance may not commence”
add “must cease”



8.0 Notice of Intent – Content

Comment Topics

- Location of content in relation to NOI submittal/redundancy with Section 5.0
- Projected land disturbance, may be difficult on certain types of projects
- Estimated start and end dates
- List 303d listed waterbodies and those with a TMDL (*Federal Requirement*)
- Plat Map
- Look at definition to address concerns by utility companies
 - Regulated entity does not always own the parcel- easements



8.0 Notice of Intent – Content

Comment Topics

- Written certification that “operator” will be able to comply with all associated requirements
- Allow on-line newspaper option and/or MS4 to post project on their website for Proof of Publication
- Location of content in relation to NOI submittal/redundancy with Section 5.0
- Other items related to content



6.0 Notice of Termination

6.1 Requirements/Criteria for submittal

Comment Topics

- (b) Replace accepted with submitted
- (c) Reevaluate this item related to post-construction requirement
- (d) Automate process to notify SWCD/MS4
- (d)(2)(G) Early Release - Intent for commercial properties of a large common plan
- Mention final stabilization again as part of termination
- Permit reaches beyond permittee- Continued stabilization after termination
- Other topics



9.0 Notice of Termination – Content

Comment Topics

- Location of content in relation to NOI submittal, Section 6.0
- Add reference related to Certification Statement
- Other items related to content
- Reference law and risk associated with submitting a false statement
- Other



7.0 Construction Plan Content

Comment Topics

- Exempt 10 acres or less
- Registered engineers only for developing a construction plan
- Define “construction support activities”
- Why is soils information required
- Excessive cost in data collection
- (c)(7)(A) should be 2 year storm -Should be peak flow per onsite watershed
- Determination of “pollutant of concern”
- (c)(10)(B)3) Remove reference to registered engineer (Qualified Individual)
- (c)(10)(E) Post-Construction O&M Manual: covenants/ordinances



10.0 Modifications Construction/SWPP Plans

Comment Topics

- Too many modifications to be reasonable- multiple operators
- Define “owner” and “operator”



11.0 Additional Requirements

Comment Topics

- 11.1 Standard Conditions for General Permits
 - Remove federal references and replace with state references
- 11.2 Planned Changed in Project or Discharge
- 11.3 Other Information
 - Frequent contact changes
 - New elected official may not want to sign construction already in progress



11.0 Additional Requirements

Comment Topics

- 11.4 Effect of Noncompliance
 - Reference Indiana Code and Federal laws- this is weak right now
 - Clarify types/levels or enforcement and by whom
- 11.5 Reporting Spills and Noncompliance
 - Discharge of any size - define
 - MS4 should be contacted in addition to IDEM
 - Mimic state requirements



11.0 Continued

Comment Topics

- 11.6 Individual or Alternative General NPDES Permit
 - What is an “alternative general permit”
- 11.7 Records Retention
 - What specific records –define records
 - Make same as EPA so there is just one standard
- 11.8 Reopening Clause
- 11.9 State and Local Laws



Appendix A

- (a)(1)(B) Adjacent lots - define
- (a)(7) include land disturbance criteria
- (a)(8)(c) 2) Larger common plans
 - Should include developer that initiates more than one, one acre project in less that 10 months



Appendix B

- Include definitions in the permit and not on-line
- Move definitions to the beginning of the permit
- Definitions:
 - Qualified individual
 - ❖ Review how other states define
 - ❖ Remove “experience” as a credential of a qualified individual
 - ❖ Keep term “Trained”
 - ❖ Expand and set specific requirements
 - ❖ Add engineers, surveyors...
 - Expand on “infeasible”



Appendix B

- Include definitions in the permit and not on-line
- Move definitions to the beginning of the permit
- Definitions:
 - Remove “experience” as a credential of a qualified individual
 - Define “waters of the state”
 - Concrete washout
 - Ditch maintenance and re-construction defined, but not used, consider removal or where it might apply
 - SWPPP



Other Items

Comment Topics

- Clarify implementations of compliance
 - Submitting violations/complaints
 - Assurance of IDEM enforcement?
 - Long and short term compliance terms after violation
 - Permit needs more teeth all around