STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES
William R. Snodgrass - Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243-1102

Addendum to Rationale
Including
Record of Comments and Responses
(Notice of Determination)

General National Pollutant Discharge Elimination System (NPDES) Permit for Discharges of Process Wastewater and Stormwater Associated with Ready-Mix Concrete Facilities

Permit No. TNG110000

October 31, 2017

Administrative Record

The permit rationale (or fact sheet) dated August 29, 2017, sets forth the Division of Water Resources (the division) basis for permit conditions to be applied statewide for the issuance of the new Tennessee National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Process Wastewater and Stormwater Associated with Ready-Mix Concrete Facilities (RMCP). The RMCP is intended to authorize process wastewater and stormwater point source discharges to waters of the State of Tennessee from activities related to ready-mix concrete manufacturing.

The current RMCP expires on October 31, 2017. On September 5, 2017, the division issued Public Notice # NOPH-TNG110000, which announced the public hearing, which were conducted at the following date and location:

Location: **312 Rosa L. Parks Avenue**
William R. Snodgrass Tennessee Tower
3rd Floor, Conference Rooms A & B
Date: **Thursday, October 5, 2017**
Informational Session: **1:00-2:00pm, CDT**
Public Hearing: **2:00-3:00pm, CDT**

In addition, by video conference at the following Environmental Field Offices (EFOs):

Eastern Time Zone (2:00 PM)		
EFO	**Location**	**Phone No.**
Chattanooga	1301 Riverfront Pkwy, Suite 206	(423) 634-5745
Johnson City	2305 Silverdale Road	(423) 854-5400
Knoxville	3711 Middlebrook Pike	(865) 594-6035

Central Time Zone (1:00 PM)		
EFO	**Location**	**Phone No.**
Jackson	1625 Hollywood Drive	(731) 512-1300
Cookeville	1221 South Willow Avenue	(931) 432-4015
Columbia	1421 Hampshire Pike	(931) 380-3371
Memphis	8383 Wolf Lake Drive, Bartlett	(901) 371-3000

On August 29, 2017, the division issued Public Notice #MMXVII-035, which announced its intent to issue the RMCP. Copy of the draft RMCP permit was made available in an electronic format on the division's web site at http://environment-online.state.tn.us:8080/pls/enf_reports/f?p=9034:34051:::NO:34051:P34051_PERMIT_NUMBER:TNG110000. The proposed NPDES permit was drafted in accordance with the provisions of the Federal Water Pollution Control Act, the Tennessee Water Quality Control Act, and other lawful standards and regulations. The division received comments through October 16, 2017. This Notice of Determination (NOD) serves as the division's response to questions, comments and issues that were raised at the hearing and/or submitted during the subsequent comment period.

Comments and Responses

Part/Section	**Comment**
General	All documents required to be available to the Director must also be made available to the public upon request.

Response:

All documents, except for those considered attorney-client privileged information, are available to the public on TDEC's Dataviewer or upon request to the division staff.

Part/Section	Comment
General	DWR should post NOIs, SWPPPs, NOCs, DMRs, and other key documents on its online permits dataviewer.

Response:

Every effort has been made to scan and upload every document DWR receives or generates while implementing this general permit. This includes not only RMCP-related documents, but also documents associated with all other regulated activities. DMRs, however, are not stored in our database, but many can be obtained using EPA's on-line tools. We intend to continue publishing documents on the Dataviewer, and convert to a paperless document management system.

Part/Section	Comment
General	The draft permit and the permit rationale references TN Rule 1200, which has been updated to 0400 series.

Response:

All references to TN Rule 1200 in the final permit have been updated to TN Rule 0400.

Part/Section	Comment
General Comment / Definitions	Permittees are familiar with the phrase "*impaired waters*"; why did you change it to "*waters with unavailable parameters*"? It seems to be a move toward less intuitive permit language. If the change remains, you should include a definition in the Section 10 of the permit. Similarly, the phrase "*unavailable waters*" should be defined (use the definition from the Water Quality Standards). How does this relate to compliance with TMDLs?

Response:

The phrase "*unavailable waters*" was not used in the draft permit. A reference to or a definition for "*unavailable waters*" is not found in the TN Rule 0400-40-03 either.

The phrase "*impaired waters*" was not used in the most recent and applicable **Rules of the Tennessee Department of Environment and Conservation, Chapter 0400-40-03, General Water Quality Criteria** (commonly referred to as Water Quality Standards, referred to as TN Rule 0400-40-03 from hereon). The regulatory approach of using "*impaired waters*" was replaced with "*waters with unavailable parameters.*"

The draft RMCP does make 10 references to "*unavailable parameters.*" The phrase is used in the context of discussing proposed or existing discharges to "*waters with unavailable parameters.*" However, TN Rule 0400-40-03, does not have a definition for "*unavailable parameters,*" but in the section 0400-40-03-.06 (Antidegradation Statement) states, in part:

"(2) Waters with unavailable parameters

Unavailable parameters exist where water quality is at, or fails to meet, the levels specified in water quality criteria in Rule 0400-40-03-.03. In the case of a criterion that is a single response variable or is derived from measurement of multiple responsible variables, the unavailable parameters shall be the agents causing water quality to be at or failing to meet the levels specified in criteria. For example, if the biological integrity criterion (derived from multiple response variables) is violated, the unavailable parameters shall be the pollutants causing the violation, not the response variables.

(a) In waters with unavailable parameters, new or increased discharges that would cause measurable degradation of the parameter that is unavailable shall not be authorized. Nor will discharges be authorized in such waters if they cause additional loadings of unavailable parameters that are bioaccumulative or that have criteria below current method detection levels."

In summary, the RMCP is aligned with the most current and applicable TN Rule 0400-40-03 and corresponding definitions. The phrase "*waters with unavailable parameters*" was appropriately used in the RMCP. This change in regulatory language does not have any substantive bearing on the implementation of the Antidegradation Statement or potential compliance with TMDLs within this general permit.

Part/Section	**Comment**
7.1	SWPPP Requirements: first paragraph of Spills/Leaks is confusing and it should be corrected/rewritten.

Response:

The first paragraph in referenced subpart now requires the following item with reference to Spills/Leaks:

A list of significant spills and significant leaks of toxic or hazardous pollutants (Section 313 Water Priority Chemicals) that have occurred in areas that are exposed to precipitation or that otherwise drain to a stormwater conveyance at the facility. The list shall document spills and leaks during the preceding three years, or from the date the facility was permitted if less than three years, and shall be updated as appropriate during the term of the permit.

Part/Section	Comment
7.1	SWPPP Requirements: first paragraph of Spill Prevention and Response Procedures is confusing and it should be corrected/rewritten.

Response:

The first paragraph in referenced subpart now requires the following item with reference to Spill Prevention and Response Procedures:

> *Areas where spills can potentially contribute pollutants to stormwater discharges, and their accompanying drainage points, shall be identified clearly in the stormwater pollution prevention plan. Where appropriate, specification of material handling procedures, storage requirements, and use of equipment such as diversion valves should be considered. Procedures and equipment for spill cleanup shall be identified in the plan and made available to the appropriate personnel.*

Part/Section	Comment
6.1	Stormwater Runoff Reporting Procedures: the year in parentheses should be updated from "(2013)". This should make it clear that anyone obtaining overage under this permit would owe monitoring results for 2018, due in January 2019. Additional concern is that anyone who already has coverage under the previous permit would then not have to turn in results for 2017 monitoring, even though they have been continuously covered in 2017 by both permits. This language should be corrected.

Response:

The paragraph associated with Stormwater Runoff Reporting Procedures was updated to say, in part:

> *Monitoring results of stormwater runoff monitoring shall be recorded annually and submitted annually using Discharge Monitoring Report (DMR) forms supplied by the division. The first DMR is due 15 days after the end of a calendar year following the effective term of this permit (i.e., monitoring for 2017 calendar year is due in January 2018).*

Part/Section	Comment
1.2	In the RMCP general permit, TNG110000, there is a provision for facilities to submit an NOI as a "non-discharging system." While this provision requires demonstration that the facility can in fact operate as such, there is no relaxation of reporting or other requirements once the NOC for this type of system is issued. What, then, is the benefit to a facility, of obtaining this type of coverage?

Response:

The non-discharging option is typically used by facilities that operate a wastewater treatment system, which requires a permit under the TN Water Quality Control Act. So, instead of obtaining a separate State Operation Permit, facilities opt for non-discharging option under the RMCP. Such operations are designed to reuse and save water to the maximum extent practicable. Non-discharging option has a financial benefit associated with saving on monitoring and sampling costs. However, it should be pointed out that any discharges, incidental or intentional, are NOT authorized under the RMCP is non-discharging option is selected.

Part/Section	Comment
6.1	RMCP should be updated to reflect the latest eReporting requirements, as required by the EPA.

Response:

Subpart 6.1 of the permit has been updated with standard language developed in cooperation with the Compliance and Enforcement Unit.

Part/Section	Comment
4.1	Numeric Effluent Limitations for Process Wastewater for pH in the draft permit do not match what is in the previous permit or the permit rationale. Limit range for pH based on the criteria for the designated use of Fish and Aquatic Life should be 6.5-9.0 for protection of larger rivers, lakes, reservoirs, and wetlands.

Response:

This typographical error has been corrected in the final permit.

Determination

In conclusion, the comments included in this notice of determination document were compiled based on their relevance to the permit content, intent and interpretation of this general permit, rather than implementation of the permit conditions (e.g. penalty evaluations, appropriateness of various enforcement measures, development of TMDLs, etc.). Those questions or comments that became a moot point as a result of the changes made in the final permit were not included in this document.

We appreciate input from all commenters, and have used those comments to further strengthen the permit and explain areas of concern. Additionally, final permit has been modified to address typographical errors and clarifications. We do not consider any of these typographical errors and clarifications to be of a substantial nature which in any way removes, weakens, or diminishes permit requirements.

Our decision on this matter is to issue a General NPDES Permit for Discharges of Process Wastewater and Stormwater Associated with Ready-Mix Concrete Facilities, Permit No. TNG110000.

DATE: October 31, 2017

Vojin Janjić
Manager, Water-Based Systems Unit