



May 2, 2016

Ms. Tiffani Kavalec
Ohio Environmental Protection Agency
50 West Town Street, Suite 700
Columbus, OH 4321

Re: Ohio's General Industrial Storm Water Permit Review

Dear Ms. Kavalec:

The Ohio Manufacturers' Association (OMA) would like to thank you and your team for recently meeting to discuss the timeline, process, and early thoughts Ohio EPA has regarding the renewal of Ohio's general industrial storm water permit later this year. At that meeting you indicated Ohio EPA would appreciate any feedback, comments, and concerns OMA and its members might have at this early juncture. We appreciate this opportunity to share some early thoughts regarding the permit.

Regulatory Expansion

The OMA opposes Ohio adopting the U.S. EPA multi-sector storm water general permit (MSGP) as-is. Using the federal permit as a starting point could start a precedent of adopting the federal permit for each iteration of the state renewal. The conversation at our recent meeting seemed to indicate that while Ohio EPA would be reviewing the newest iteration of the federal permit, it would not wholly adopt the U.S. EPA MSGP but rather use it as guide. There is concern about regulatory 'creep' in which each iteration of the permit would continue to add new requirements and tighten limits regardless of scientific proof or proven necessity to protect the environment.

Background

Currently the Ohio permit only allows "natural background" to be considered. This natural background can be loosely defined as substances that are naturally occurring in soils or groundwater (and do not include legacy pollutants or pollutants in run-on from neighboring sources which are not naturally occurring). Please consider taking into account "non-natural background." This is background associated with items that are not industrial activity but are simply in building materials or run-on from neighbors.

Sampling

Consider limiting benchmark sampling to four quarterly samples for the term of the permit. The current permit allows for an entity to choose four quarterly samples in the first three years of the permit, while U.S. EPA MSGP requires quarterly benchmark sampling for the first four quarters. In the federal scenario, if the averages are below the benchmark, the benchmark portion of the permit is fulfilled. If not, a regulated entity must review the control measures and make modifications and then perform four more quarters; this could go on for the entire five years of

the permit. Clarity needs to be provided in how to fulfill and exit the benchmark monitoring requirements as quickly as possible.

In regards to the timing of the sampling, we would suggest that the storm water sampling strategy transition away from “first flush” to “event duration.” Low benchmark levels are more in line with the average storm water quality over the course of a storm event, rather than the high spike at the start of a storm. Other states (e.g. California, Oregon, and Washington) with such benchmarks allow for sampling periods up to twelve hours after the start of the storm event. We would also suggest that this be daytime grab sampling which is a safety improvement issue for manufacturers.

Benchmarks

The OMA would strongly urge Ohio EPA to not lower the current benchmarks. We would appreciate a chance to review the data sets which were discussed at our above-referenced meeting to determine the appropriateness of the current benchmark standards.

Best Management Practices

The OMA suggests that overly or highly prescriptive best management practices eliminate the flexibility manufacturers need to comply with rules and operate efficiently. A too prescriptive practice certainly does not work the same way for all manufacturers. Flexibility is key in responding to permits and protecting the environment.

In closing, again, thank you for considering our input. As Ohio EPA develops these rules or convenes work groups or interested-party meetings, please include Ohio’s manufacturers in these opportunities, including me and OMA environmental counsel Frank L. Merrill of Bricker & Eckler. We look forward to working with you and Ohio EPA on this issue.

Sincerely,



Rob Brundrett
Director, Public Policy Services

cc: Frank L. Merrill, Esq.