

**RESPONSE TO COMMENTS  
FINAL PERMITTING DECISION**

Permit No.: NPDES General Permit ARG500000 for Aggregate Facilities

Prepared by: Zachary Carroll

The following are responses to comments received by the Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) regarding the draft permit number referenced above and are developed in accordance with regulations promulgated at 40 C.F.R. §124.17, Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation No. 8 (Administrative Procedures), and Arkansas Code Annotated (A.C.A.) §8-4-203(e)(2).

**Introduction**

The above permit was submitted for public comment on January 19, 2020. The public comment period ended on February 18, 2020.

This document contains a summary of the comments that DEQ received during the public comment period. A summary of the changes to the NPDES General Permit can be found on the last page of this document.

The following organization sent one comment to DEQ during the public notice. Additionally, DEQ made changes based on further internal review of the permit.

Commenter	Number of Comments Raised
1. Andy Peeples, APAC – a CRH Company	1
2. DEQ	4

## Comment from Andy Peebles, APAC – a CRH Company

**Comment 1:** Due to the nature of quarrying activities, an existing quarry pit used as a process water pond will rarely be able to meet the requirements of sections 1.2.2.3, 1.2.2.4, and 1.2.2.5, compaction and inner and outer dike slopes.

We request that ADEQ add an exemption from items 1.2.2.3, 1.2.2.4, and 1.2.2.5 for quarry pits and existing ponds used for process water sedimentation only.

Please add a statement that compaction requirements, 1.2.2.3, are not required when using an existing quarry pit or pond as a process water pond.

Please add a statement that dike slope requirements, 1.2.2.4 and 1.2.2.5, are not required when using an existing quarry pit or pond as a process water pond.

**Response:** DEQ acknowledges that it may be difficult to demonstrate dike compaction for existing ponds and quarry/mine pits converted for use as process water ponds. Therefore, Part 1.2.2.3 has been updated as follows to allow the dike compaction requirement to be waived on a case-by-case basis for existing ponds or quarry/mine pits converted for use as process water ponds with no chemical addition:

*Dikes shall be compacted to at least 95 percent Standard Proctor Density to form a stable structure in accordance with Section 93.411 of the latest edition of the Ten State Standards. The Division may waive this requirement on a case-by-case basis for existing ponds or quarry/mine pits converted to process water ponds, provided that chemicals are not added to meet permit limits or to aid in processing operations;*

Ponds with chemical addition must have sufficient dike compaction to ensure protection of groundwater. Therefore, the dike compaction requirements in Part 1.2.2.3 will not be waived for chemical addition ponds. The previous permit also required chemical addition ponds to meet the pond requirements of the Ten State Standards, including the dike compaction requirements.

The requirement in Part 1.2.2.4 for inner and outer dike slopes to be no steeper than 1:3 is necessary to ensure levee stability. Please note that this requirement applies only to dikes, i.e. earthen embankments built around a process water pond. The requirement does not apply to the excavated portion of a pond below ground level. Therefore, this requirement will not be waived, and no changes have been made to Part 1.2.2.4.

On additional review of Section 93.414 of the Ten State Standards, inner dike slopes may be flatter than 1:4 if justified. Therefore, Part 1.2.2.5 has been updated as follows to allow for flatter slopes:

*Inner slopes are recommended to not be flatter than 1 vertical to 4 horizontal (1:4). Flatter slopes may be justified in accordance with Section 93.414 of the latest edition of the Ten State Standards;*

**Comments from DEQ**

- Comment 2:** Part 1.3.2 was updated to better clarify that facilities that may cause or contribute to an exceedance of water quality standards or exceed the calculated loads or assumptions in any applicable TMDL are excluded from coverage.
- Comment 3:** Part 1.5.1 was updated to clarify that incomplete applications are returned rather than having application reviews terminated.
- Comment 4:** A benchmark concentration for TDS was added as footnote #5 to the table in Part 2.1. This is not an effluent limitation; a benchmark exceedance is therefore not a permit violation. Section 2.40 was added to the Fact Sheet regarding this change, and Section 6.1.4 of the Fact Sheet was updated to reference the benchmark concentration.
- Comment 5:** Part 2.2.3 was updated to reflect that the water level in a dredge pit must provide 3 feet of freeboard rather than being 3 feet below the ground surface to account for dredge pits with levees above ground level.

<b>Summary of Changes to the permit</b>			
Part	Draft Permit	Final Permit	Comment #
1.2.2.3	No waiver for dike compaction requirements.	“...The Division may waive this requirement on a case-by-case basis for existing ponds or quarry/mine pits converted to process water ponds, provided that chemicals are not added to meet permit limits or to aid in processing operations;”	1
1.2.2.5	“Inner slopes should not be flatter than 1 vertical to 4 horizontal (1:4) in accordance with Section 93.414 of the latest edition of the Ten State Standards;”	“1.2.2.5 Inner slopes are recommended to not be flatter than 1 vertical to 4 horizontal (1:4). Flatter slopes may be justified in accordance with Section 93.414 of the latest edition of the Ten State Standards;”	1
1.3.2	“provide sufficient reduction of the listed pollutant.”	“...provide sufficient reduction of the listed pollutant and not cause or contribute to an exceedance of the standards and not exceed calculated loads or assumptions in any applicable TMDL.”	2
1.5.1	“terminate the continued coverage and the review of any incomplete permit application”	“terminate the continued coverage and return any incomplete permit application”	3
2.1	No footnote regarding benchmark concentrations	“[Footnote] 5. 500 mg/l is considered a benchmark concentration for TDS. This is not an effluent limitation; a benchmark exceedance is therefore not a permit violation. DEQ may request monitoring data in accordance with Part 6.7 of this permit to evaluate reasonable potential to exceed water quality standards.”	4
2.2.3	“...when the water level is more than 3 feet below the ground surface...”	“...when the water level provides at least 3 feet of freeboard...”	5