



REGION 10
SEATTLE, WA 98101

April 19, 2024

Mr. Jim Rypkema
Acting Program Manager WDAP
Alaska Department of Environmental Conservation
Wastewater Discharge Authorization Program
555 Cordova Street, Anchorage, Alaska 99501

Dear Mr. Rypkema:

The Alaska Department of Environmental Conservation released the draft NPDES General Permit for Oil and Gas Exploration, Production, and Development Activities on the North Slope of Alaska (NSGP), Permit No. AKG33200, for a 30-day public review and comment period on March 18, 2024. This letter details the U.S. Environmental Protection Agency Region 10's comments regarding the proposed permit.

During our discussions on February 28 and March 14, 2024, EPA outlined our primary concern, related to Discharge 008, Contained Water. Previously, Discharge 008 covered discharges from contaminated secondary containment areas (SCAs). The draft permit proposes to rename Discharge 008 as Contained Water, which now includes discharges from open reserve pits as well as from contaminated SCAs. As discussed in more detail below, the proposed discharge of accumulated water from open reserve pits is inconsistent with the effluent limit guidelines (ELGs) set forth in the Onshore Subcategory of the Oil and Gas Extraction Point Source ELGs, 40 CFR Part 435, Subpart C. Additional comments related to Discharge 008 are also provided.

Comment 1: The proposed authorization of discharge from open reserve pits is in direct conflict with the ELGs, which prohibit the discharge of pollutants from sources that contain drilling waste(s).

NPDES permits are required to contain technology-based effluent limits or any more stringent water quality-based effluent limits (see 40 CFR 122.44). For many industrial categories of wastewater discharges, technology-based effluent limits must be based on ELGs promulgated by the EPA. The EPA promulgated the Oil and Gas Extraction Point Source ELGs (40 CFR Part 435) in 1979, and amended the regulations in 1993, 1996, 2001, and 2016. The regulations cover discharges from oil and gas extraction activities in onshore, coastal, and offshore environments. The proposed permit covers owners and operators of facilities related to oil and gas exploration, production, and development activities onshore in the North Slope Borough or in coastal waters. The open reserve pits are located onshore; therefore, the Onshore ELGs apply.

The Onshore ELGs state: *there shall be no discharge of wastewater pollutants into navigable waters from any source associated with production, field exploration, drilling, well completion, or well treatment (i.e., produced water, drilling muds, drill cuttings, and produced sand) (40 CFR 435.32).*

Permit Part 1.2.2 includes Contained Water (Discharge 008) as an authorized discharge. Fact Sheet Part 2.2.3.1 states that discharges from open reserve pits are being added as a covered discharge under Discharge 008. Open reserve pits are associated with onshore oil and gas activities and are characterized in Parts 4.7, 5.2.2.2, 5.3.8, 6.7, and Attachment C of the Fact Sheet. It is noted several times within the Fact Sheet that open reserve pits contain historical deposits of drilling fluids and drill cuttings from, and page 89 of the Fact Sheet indicates: “...*there are some concerns over whether accumulated water in the pits can consistently meet [water quality standards] and can be discharged under the General Permit due to being in contact with drilling waste.*” Since the open reserve pits contain drilling waste, they are subject to the ELGs set forth above, which prohibit discharges of pollutants associated with onshore oil and gas activities. Therefore, the draft permit conditions for Discharge 008 fail to comply with the Onshore ELGs by allowing the discharge of water from open reserve pits that contain drilling waste(s). Historically and currently, this water is disposed of through underground injection, and that remains a viable solution for the industry.

Comment 2: The proposed authorization of discharge of water from open reserve pits that contain drilling waste(s) is in violation of the commingling provision of the permit.

The authorization to discharge from open reserve pits under Discharge 008 is inconsistent with the conditions in the permit related to commingled discharges. Specifically, Part 2.1.3 of the Permit and Part 6 of the Fact Sheet state: “*When applying effluent limits to commingled discharges, the more stringent effluent limits apply to the commingled discharge.* Part 1.1.1 of Attachment C of the fact sheet states: *...the discharge of drilling fluids or drill cuttings to freshwater locations is prohibited.* Since stormwater is commingled with drilling waste in the open reserve pits, they are subject to Part 2.1.3 of the Permit. Thus, the allowance of discharge of accumulated water from open reserve pits that is in contact with drilling waste is prohibited given the commingled discharge condition. See also Comment 1.

Comment 3: The permit requirements for a SCA to be deemed uncontaminated are unclear and insufficient. In addition, the requirements for permittees to request removal of authorization for Discharge 008 are not clear.

The definition of uncontaminated SCA in the draft Permit reads: “*...a secondary containment area (SCA) where a spill has not occurred and a sheen, odor, or discoloration has not been observed. A contaminated SCA may be deemed uncontaminated after 12 months without a spill, observation of a sheen, discoloration, or odor, or an exceedance of TAH and TAqH.*”

It is not clear from the above definition if each individual requirement to deem a contaminated SCA an uncontaminated SCA has independent applicability. For instance, is sampling for TAH and TAqH required to deem a contaminated SCA uncontaminated? Or is 12 months without a spill, sheen, discoloration, or odor sufficient to make this determination?

Further, relying on the positive identification of an observed spill, sheen, odor, or discoloration does not appear adequate to decide that a SCA is uncontaminated. All contaminated SCAs should be required to sample for TAH and TAqH over the 12-month period and there should be no detectable hydrocarbons prior to being deemed uncontaminated and discharged as stormwater. As written, it is unclear if “...exceedance of TAH and TAqH” means an exceedance of detection levels, an exceedance of the permit limits applicable to Discharge 008, or something else. Additionally, the Fact Sheet should indicate whether “...12 months without a...” is intended to be 12 consecutive months.

Permit Part 2.8, pg. 21, reads: “A permittee may request removal of the authorization for Contained Water (Discharge 008) once the SCA is determined to be uncontaminated (Appendix C – Definitions) for four consecutive months.” Similar language is in the Fact Sheet on pg. 48. Please clarify if this means that after 16 months a contaminated SCA could be declared uncontaminated and discharged as stormwater (12 months to be deemed uncontaminated and four to remove authorization under Discharge 008 and be discharged as stormwater under Discharge 006).

Comment 4: The Discharge 008 requirements are insufficient to ensure that contaminated water is not discharged from SCAs.

Part 2.2.3.2 of the Fact Sheet related to contaminated SCAs includes the statement: “In at least one occurrence, the pre-discharge analytical results were below the water quality criteria for hydrocarbons but the official analytical result of the actual discharged water violated the permit limits. This suggests that between the time the pre-discharge sample was sampled and when the supposed uncontaminated SCA water was discharged, the contained water became contaminated.”

It is clear either the pre-discharge sample had QA/QC issues that resulted in a false negative, or it was not representative of the discharge – presumably, as noted in the fact sheet, because the SCA became contaminated between sampling events. The Permit should specify that samples should be taken at the discharge point. Further, TAH and TAqH should be monitored monthly and before each discharge event, to the extent practicable, to ensure that the water meets requirements when it is discharged.

As you are aware, pursuant to Sections 4.03(2) and (7) of the National Pollutant Discharge Elimination System Memorandum of Agreement between the State of Alaska and the EPA Region 10, the EPA has 90 days to comment upon or object to a proposed general permit. This letter does not waive the EPA’s ability to object to this proposed permit at the end of the 90-day review period on June 16, 2024.

We welcome the opportunity to discuss these comments with you to reach resolution and achieve our common objectives under the CWA.

Please reach out to our Alaska oversight coordinator, Sally Goodman, if you have any questions or would like to schedule a follow-up discussion.

Sincerely,

Erin Seyfried
Manager, NPDES Permits Section
Water Division

cc: Gerry Brown, ADEC (gerry.brown@alaska.gov)
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