

**September 19, 2007**

Responsiveness Summary to Comments  
Received Regarding Ohio EPA's Draft NPDES General Permit for  
Storm Water Discharges Associated with Industrial Activity  
From Marinas (OHRM00001)

Public Noticed January 30, 2007  
Comment Period Ended March 22, 2007

Please note that for administrative purposes this general permit number has been changed from OHR200001 to OHRM00001. Also, the example best management practices (BMPs) found within Table 1 of the draft permit have been removed and are now included within Ohio EPA's template Marina Storm Water Pollution Prevention Plan (SWPPP).

**GENERAL**

1. When will the permit be in effect and how will marinas that are required to have coverage be identified and given notice?

Response: The effective date of the general permit is 90 days after the issuance date. The general permit requires that the Notice of Intent (NOI) and application fee of \$350.00 be submitted by the effective date. The NOI is a one-page application form to request initial coverage or to renew coverage under a general permit. The applicant must certify their intention to comply with a general permit by submitting a complete NOI. The application is submitted to Ohio EPA's Central Office with the application fee of \$350.00. Instructions for submitting the NOI can be viewed at: [http://www.epa.state.oh.us/dsw/permits/GP\\_Marinas.html](http://www.epa.state.oh.us/dsw/permits/GP_Marinas.html)

Ohio EPA attempted to develop a mailing list of possible marina operations throughout Ohio. As a result, over 400 facilities were mailed the public notice and notified on how to comment on the draft general permit. This same list will receive notification once the general permit is issued. Ohio EPA will continue to update this list as more marinas are identified.

Ultimately, facilities need to determine if they are subject to general permit. Standard industrial classification (SIC) codes are four-digit industry codes that were originally created by the federal Office of Management and Budget (OMB) for statistical purposes. Other organizations sometimes use these codes when classifying business establishments. To find the correct SIC code, an operator might check his or her unemployment insurance forms or contact the appropriate State unemployment services department. In addition, SIC code numbers and industry descriptions may be found in the "Standard Industrial Classification Manual" prepared by the Executive Office of the President, Office of Management and Budget. This text may be found in a public library or may be

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ordered from the US Government Printing Office, 200 North High Street, Columbus, Ohio 43215, (614) 469-6955. Another source to view SIC codes and descriptions is the following website provided by the Occupational Health and Safety Administration: <http://www.osha.gov/oshstats/sicser.html>. Facilities will need to determine their SIC code by what best describes the principal product or services provided at the facility.

Marinas (SIC code 4493) that are involved in boat maintenance activities (including boat rehabilitation, mechanical repairs, painting, fueling and lubrication) or equipment cleaning operations are considered to be associated with industrial activity and are required to obtain coverage under this permit.

Facilities that are “primarily engaged” in operating marinas are best classified as SIC 4493 - marinas. These facilities rent boat slips, store boats, and generally perform a range of other marine services including boat cleaning and incidental boat repair. They frequently sell food, fuel, fishing supplies, and may sell boats. For facilities classified as 4493 that are involved in boat maintenance activities (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or equipment cleaning operations, those portions of the facility that are involved in such boat maintenance activities are covered under the storm water regulations.

Facilities classified as 4493 that are not involved in equipment cleaning or boat maintenance activities are not intended to be covered under federal storm water regulations. The retail sale of fuel alone at marinas, without any other boat maintenance or equipment cleaning operations, is not considered to be grounds for coverage under the storm water regulations.

Marine facilities that are “primarily engaged” in the retail sale of fuel and lubricating oils are best classified as SIC code 5541 - marine service stations - and are not covered under federal storm water regulations. These facilities may also sell other merchandise or perform minor repair work.

Facilities “primarily engaged” in the operation of sports and recreation services such as boat rental, canoe rental, and party fishing, are best classified under SIC code 7999 - miscellaneous recreational facilities - and are not covered under federal storm water regulations.

Facilities “primarily engaged” in the retail sale of new and used motor boats and other watercraft, marine supplies, and outboard motors, are best classified under SIC code 5551 - boat dealers - and are not covered under the federal storm water regulations.

Marinas owned and operated by a State Park or Metro Park may not be “primarily engaged” in operating a marina; therefore, may not have a SIC code of

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4493. Ohio EPA feels that these marinas if involved in boat maintenance activities should be subject to the general permit. The permit will be applicable to all operators who conduct activities described by Standard Industrial Classification (SIC) code 4493 (Marinas) and conduct boat maintenance activities.

2. Have there been any studies done as to the cost of implementation and maintenance of the requirements of this permit and the impact that those costs will have on the typical marina operator in the State of Ohio, which is generally a small business, one that is ill-equipped to handle this type of wide-ranging, bureaucratic-oriented requirement?

Response: Ohio EPA has not done a study to determine the cost of complying with this general permit. Ohio EPA does believe that the requirements of the general permit can be developed and implemented with minimal costs. Marina operators can use Ohio EPA's template storm water pollution prevention plan (SWPPP) as guidance to develop their own site-specific SWPPP. The template SWPPP also contains the necessary forms to satisfy the general permit's record-keeping requirements. Ohio EPA believes that it has provided useful tools for marina operators to utilize to keep costs minimal in complying with the general permit.

The marina storm water general permit is very similar to USEPA's NPDES Stormwater Multi-Sector General Permit for Industrial Activities (MSGP), specifically the sector which applies to marinas. USEPA has prepared an analysis of costs of complying with this permit. To view all documents associated with MSGP, please see the following:

<http://cfpub1.epa.gov/npdes/stormwater/msgp.cfm>

3. Would a marine operation that is inland be required to maintain this same permit on the basis that all run off, whether you are beside a lake or stream, ends up in the surface waters of the state?

Response: Yes, provided that the facility's SIC code is 4493 and the facility is involved in boat maintenance activities (including boat rehabilitation, mechanical repairs, painting, fueling and lubrication) or equipment cleaning operations.

4. There are programs in place in Ohio, such as the Clean Marina Program, that addresses many of the same issues while leaving the bureaucracy off the table, so there is no discouraging regulations in place to turn people away from operating clean. And that the core reasons for operating clean could be outweighed by the bureaucracy created by such a permit process as being proposed.

Response: Ohio EPA agrees that the Ohio Clean Marinas Program is and will have a very positive environmental affect. Although, Federal storm water regulations require that marinas have NPDES permit coverage for their storm water discharges. Ohio EPA is required to administer USEPA's storm water regulations.

5. It was recommended that the permit complement the Clean Marinas Program.

Response: The basic goal of the Ohio Clean Marinas Program is environmental stewardship by making marinas and boaters more aware of environmental laws, rules and jurisdictions, and to get as many marinas as possible to follow best management practices (BMPs) and to be designated as "Clean Marinas." The primary method to satisfy the general permit requirements is also through the use of BMPs. Ohio EPA has and will continue to work with the Ohio Clean Marinas Program.

## **COMPLIANCE ASSISTANCE**

6. Our marinas are primarily small family-owned businesses. Because they operate on short 6 to 7 month season they are primarily staffed by part-time employees including high school and college students. In reality, our marinas lack any staff with environmental expertise that is typically found in larger industries and corporations. Comments requested that sufficient time be provided for implementing the permit process and for marinas to determine whether the permit is applicable to them. Also, comments requested that Ohio EPA provide educational materials and assistance to affected marinas through such ideas as workshops, videos and other expert help.

Response: Reasonable compliance timeframes have been included within the general permit. The Notice of Intent (NOI) and \$350.00 application fee will be required within 90 days of issuance of the general permit. Also, from the date of being granted permit coverage, the general permit provides 12 months to develop and implement the storm water pollution prevention plan (SWPPP) and 15 months to initiate monitoring requirements.

Ohio EPA has developed a template Storm Water Pollution Prevention Plan (SWPPP) that marinas can use as guidance to develop their own site-specific SWPPP. Also, Ohio EPA has developed a guidance document for the general permit's annual analytical and quarterly visual monitoring requirements. Both guidance documents can be viewed at the following web site: [http://www.epa.state.oh.us/dsw/permits/GP\\_Marinas.html](http://www.epa.state.oh.us/dsw/permits/GP_Marinas.html). The Ohio Clean Marinas Program Best Management Practices Guidebook also contains BMP descriptions to address permit requirements. Ohio EPA is open to participate in outreach efforts to provide education and clarification on permit requirements.

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7. Ohio EPA was urged to consider ways that compliance assistance through such vehicles as grants or cost-share programs might be developed to help marinas with program related expenses.

Response: At this time, Ohio EPA is not aware of any cost share programs or grants to assist marinas in complying with the permit.

8. As part of the Notice of Intent (NOI), will Ohio EPA provide educational workshops, possibly through Ohio Clean Marinas Program (OCMP), to cover requirements and procedures for a Storm Water Pollution Prevention Plan (SWPPP), more precisely will forms and guidelines be provided for monitoring requirements and record keeping?

Response: Ohio EPA is open to participate in OCMP workshops related to the general permit. As indicated in the response to comment #6, Ohio EPA has developed a template SWPPP and monitoring guidance document. The template SWPPP contains the necessary forms to satisfy the general permit's record keeping requirements.

9. Ohio EPA was encouraged to continue to work with the Ohio Clean Marinas Program and Ohio's marina industry.

Response: Ohio EPA intends on continuing to work with the Ohio Clean Marinas Program and Ohio's marina industry.

### BOAT WASHING

10. Under the Description of General Permit Coverage and Types of Discharge, it states "no detergents or other chemical cleaning agents are to be used." This lumps together all detergents and cleaners, and leaves no provisions for biodegradable products. Will such biodegradable products be permitted?

Response: No. The general permit authorizes the discharge of wastewater from boat washing into municipal separate storm sewer systems (MS4s) or waters of the state, provided that only water or high pressure steam is used and no detergents or other chemical cleaning agents are used. There is no exemption made for biodegradable products.

Although "biodegradable" sounds good, it does not mean that a product is nontoxic. Biodegradable products are those which can be broken down by bacteria, other organisms or natural processes. The degradation of "biodegradable" products in water uses dissolved oxygen, and therefore these products can lower dissolved oxygen levels which is harmful to aquatic organisms.

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11. What can be done to allow for the use of bio-degradable non-toxic bottom wash products in addition to pressurized water and steam and remain compliant with storm water regulations?

Response: If any type of detergent or chemical cleaning agent is used for boat washing then the wastewaters must go to a sanitary sewer or be collected and hauled to a wastewater treatment plant. If these wastewaters are to be directly discharged to a surface water of the state then a separate NPDES permit must be obtained for the discharge.

12. Are there any possibilities of any detergents that have been previously considered environmentally friendly as to be acceptable for use under this permit?

Response: See responses to comments #10 and #11.

13. Has there been any discussion or thought given as to how watercraft is to be maintained if they cannot be effectively cleaned?

Response: Ohio EPA has no objection to using detergents to clean watercraft but the wastewaters must go to a sanitary sewer, are collected and hauled to a wastewater treatment plant or are covered under a separate NPDES permit.

### MONITORING REQUIREMENTS

14. One commenter questioned whether dry marinas that have no slips but offer the same services as marinas located on the water be required to have permit coverage and be subject to the analytical monitoring requirements?

Response: Yes, provided that the facility's SIC code is 4493 and the facility is involved in boat maintenance activities (including boat rehabilitation, mechanical repairs, painting, fueling and lubrication) or equipment cleaning operations and discharge to surface waters of the state. The intent of the general permit is for a dry marina or boatyard that has 200 or more boat slips (total boat capacity including wet and dry) be subject to the analytical monitoring requirements. Additional clarification has been added to the general permit.

15. Under Monitoring Requirements it states "marinas which have 200 or more boat slips will have to perform annual analytical monitoring." Does this provision mean all 200 slips have to be in one area of the body of water or does the number include all slips on the body of water (e.g., we may not have 200 slips in the same area of the waterbody, but the overall waterbody may have 200). As a result of this uncertainty, we would request further clarification to ensure proper compliance.

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Response: This condition of the general permit applies when the facility covered under the permit has greater than or equal to 200 boat slips (total boat capacity including wet and dry). If a regulated facility has boat slips located in different areas but they all are associated with the same regulated facility, then they all should be included in the total number.

16. We do not understand the basis for the proposed requirement that marinas of 200 slips or more have analytical monitoring while smaller ones do not. Yes, we are in total agreement that smaller marina operations should not be burdened with analytical monitoring. But we're confused about the 200 slip breakpoint. Is this an arbitrary number or is there some science behind the criteria?

We strongly recommend that the requirement for analytical monitoring be changed from 200 slips to marinas of more than 500 slips. Marinas with 500 or more slips normally have a larger staff than marinas under 500 slips. Therefore, the larger marinas may be better able to perform the required monitoring. Finally, in this regard, we see the record keeping and training required of the small workforce in even Ohio's largest marinas a difficult policy. It's intent seems clear but it's practical implementation will be difficult. Moreover, if marinas do not have the personnel to undertake monitoring, the alternative is to force Ohio's marinas to bear the added expense of hiring outside firms to accomplish this. We are sure there are some environmental firms out there who are just salivating at possible new business being handed their way, but I can assure you our small marinas will find it expensive and unfair.

Response: The general permit's analytical monitoring requirements originate from USEPA's NPDES Stormwater Multi-Sector General Permit for Industrial Activities (MSGP), specifically the sector which applies to marinas. Although, the MSGP requires analytical monitoring to be performed by all facilities covered under the permit. In addition, the MSGP uses a benchmark approach for the monitoring requirements. It requires the permittee to average 4 monitoring events during the first year of permit coverage. If the average exceeds the benchmark for a given pollutant then additional monitoring would be required.

Ohio EPA attempted to simplify the monitoring requirements by only requiring it on an annual basis with no benchmark requirements. Also, due to comments received early in the permit process it was decided to not require the analytical monitoring of very small marinas. There is no scientific rationale behind the 200 slip requirement; rather, it was a number that Ohio EPA felt was reasonable. The comment was taken into consideration but no changes were made.

17. Assuming a marina employee can be trained to effectively collect samples at the appropriate time and locations, will the Ohio EPA designate labs that will analyze the samples and provide a report back to the marina? In light of what appears to be a complicated and possible expensive monitoring requirement for Ohio's

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marinas, we suggest that these efforts be redirected to focus on creating effective Storm Water Pollution Prevention Plans (SWPPPs) and encouraging that best management practices are in place to prevent negative environmental impacts.

Will a list of laboratories qualified to test the required parameters be provided by Ohio EPA along with instructions on how and where to take samples properly?

Response: The general permit's monitoring requirements are intended to aid the marina in assessing SWPPP effectiveness. The annual analytical monitoring requirements will require the services of a lab. Ohio EPA's Division of Surface Water does not certify labs. The following link provides a list of possible labs that may be able to analyze samples:

<http://www.epa.state.oh.us/ddagw/Documents/chemlabs.pdf>. Another option to finding a lab is to check your local yellow pages. Just confirm that the lab uses test procedures approved under 40 CFR Part 136. Ohio EPA's monitoring guidance document provides useful guidance on satisfying the monitoring requirements and interpreting results.

18. What is the cost of analytical monitoring required by the permit?

Response: Ohio EPA contacted labs to determine the costs associated with analyzing samples for the five parameters. These costs ranged from \$52.00 to \$71.00.

19. Will marina operators be provided with educational opportunities on how to interpret water quality monitoring results?

Response: Ohio EPA's monitoring guidance document provides useful guidance on satisfying the monitoring requirements and interpreting results.

20. If water quality test results are not going to be reported to Ohio EPA, what is the value of maintaining these records and conducting the monitoring?

Response: Unless requested, the results of the analytical monitoring do not need to be submitted to Ohio EPA. These results do need to be maintained with the SWPPP and made available to Ohio EPA upon request. The general permit's monitoring requirements are intended to aid the marina in assessing SWPPP effectiveness. Ohio EPA's monitoring guidance document provides useful guidance on satisfying the monitoring requirements and interpreting results.