



The Metropolitan District  
water supply · environmental services · geographic information

February 14, 2019

Mr. James Creighton  
WPED, DEEP  
79 Elm Street  
Hartford, CT 06106-5127

RE: 2019 Proposed Changes to the General Permit for Discharges of Miscellaneous Sewer Compatible (MISC) Wastewater from Industrial Users and the General Permit for the Discharge of Wastewaters from Significant Industrial Users

Dear Mr. Creighton:

Based on the public notice issued by the DEEP on January 14, 2019 for the General Permit for Discharges of Miscellaneous Sewer Compatible (MISC) Wastewater from Industrial Users and the General Permit for the Discharge of Wastewaters from Significant Industrial Users (SIU), the Metropolitan District (MDC) has the following concerns and comments.

#### MISC General Permit Comments

The MDC objects strongly to the DEEP listing the POTW as receiving permit registrations, accepting discharge monitoring reports, performing inspections and enforcement on violations of a DEEP-issued General Permit. Although the MDC wishes to be notified and provide approval of the General Permit registrations, it is not reasonable for the DEEP to shift its regulatory and enforcement authority from the agency to the POTW. The MDC does not have the resources, fiscal and otherwise, to administer, regulate and enforce the General Permit; this is the responsibility of the State regulatory authority, in this instance, the DEEP, and this responsibility and authority must remain where it currently is.

The 1992 Amendment to the National Pollutant Discharge Elimination System Memorandum of Agreement (MOA) Between Connecticut Department of Environmental Protection and the United States Environmental Protection Agency, Region 1 states: The Memorandum of Agreement between the US EPA and the CT DEP is “hereby amended to include DEP and EPA responsibilities for the **development, issuance and enforcement** of National Pollutant Discharge Elimination System (hereinafter NPDES) general permits as follows:” [emphasis added]. The document then describes the development of general permits, fact sheet, EPA review of the draft general permit, public notice, etc. It then states “The DEP also has the primary responsibility for conducting compliance monitoring activities and enforcing conditions and requirements of general permits.” Given these set of facts, under what legal authority is DEEP divesting itself of these responsibilities and shifting them to the POTWs?

The MDC’s understanding of the purpose of the 1992 Amendment to the MOA was to implement general permits in response to the tremendous backlog of individual permits. DEEP received funding from EPA at the time to run the “delegated program”. Please provide the backup data to substantiate that DEEP does not receive funding from EPA on general permits. Before the 1992 MOA was finalized, how

many individual and general (types and registrants) permits were in effect? How many of each was under review? After the 1992 MOA was finalized, please provide answers to the same questions. Also, how much money was received from EPA for the NPDES program for the years from 1991 through 2018?

Has a revised MOA been drafted? If so, please provide a copy. What communications has DEEP had with EPA regarding giving DEEP responsibilities to the POTWs? What has been the nature of EPA's response? When does DEEP expect to receive EPA's comments, recommendations and/or objections? Please provide their comments when they are available. When did or does their 90-day clock begin?

The MOA states that "All specific State commitments regarding the issuance and enforcement of general permits will be determined through the annual 106 workplan/SEA process." Please provide access to the annual 106 workplans for the years from 1991 through 2018.

When asked during the January 23, 2019 public meeting about the proposed permit and DEEP's authority to delegate their responsibility to the POTWs, the response was that it is contained in 22a-430(b). Please provide the exact section and language in 22a-430(b) that gives DEEP the authority to delegate responsibility for regulation and enforcement of the general permit to the POTWs. This statute states that DEEP may issue a general permit, that the general permit may require the permittee to "register such discharge with the commissioner...", "commissioner may require the submission of a certification made by a qualified professional", etc. However, the MDC is unable to identify language contained in the referenced statute that suggests that the DEEP possesses the authority to delegate such responsibilities.

From the EPA's website (<https://www.epa.gov/npdes/pretreatment-roles-and-responsibilities#resp>) under "Control Authorities" is the following: "Where a POTW has an approved local pretreatment program, the POTW is the control authority. Where a POTW has not received approval, the control authority is the approved state or, in unapproved states, the EPA." The site lists the Control Authority's, responsibilities, where there is an approved local pretreatment program, as, among other things, "conducting monitoring and inspections, receiving and reviewing reports and notifications, evaluating compliance with program requirements, taking enforcement as appropriate, etc. The MDC has not requested, nor received approval for a local pretreatment program. Accordingly, please explain how the POTWs can be acting as the Control Authority without having approved local pretreatment programs.

How will DEEP determine if all of the 80 POTWs in CT are aware of their potential new responsibilities under the Miscellaneous GP? What if the POTWs do nothing to manage the MISC GP?

One of the reasons that DEEP has provided for this change to the MISC GP is that DEEP suggests that it does not have the staff to perform these functions. If the State does not possess the necessary resources, as DEEP suggests, what leads the DEEP to a conclusion that the respective POTWs possess the required resources? Other than one or two POTWs in the state, what information does DEEP have on the staff, resources and knowledge at each POTW to take on this responsibility? Of the approximate 80 POTWs in CT, many have a chief operator and a handful of operators. If this MISC GP is approved and becomes their responsibility to administer, register dischargers, receive and review discharge monitoring reports and enforce effluent limits and permit conditions, how can DEEP be confident this change "will not cause pollution of the waters of the state?"

Can DEEP provide a list of all of the current permittees for MDC, by town, who would be covered under this proposed MISC GP? When will this be available?

What assistance will DEEP provide to the POTWs? What if there are issues of non-compliance with a permittee?

MDC has the following list of specific concerns for the MISC General Permit:

Section 3(b)(9)(C)- Add the word “personal” before “visual” in (ii). The PE or CHMM should be performing the site inspections. There were numerous issues with the original Stormwater Industrial General Permit because the PE was often not the person inspecting the facility.

Section 3(e) – If the effective date of authorization is based on written approval from the POTW, DEEP should change this to be the effective date that the General Permit is issued not when the POTW submits an approval. Otherwise this could place a tremendous burden on the POTW to submit written approvals to numerous registrants.

Section 4(c)(2) – It is very confusing that the DEEP is issuing the required forms but the registrant has to submit to the POTW. DEEP should provide the forms for the POTW to modify for each separate POTW.

Section 4(h) – This is confusing. The DEEP can reject a registration but the DEEP will not be receiving the registration forms. This section should be removed if the DEEP is not accepting registrations.

Section 4(h)(4) – What are considered “reasonable conditions”, how can the DEEP have no involvement with the approval of the registrations but can require “reasonable conditions”?

Section 5(a)(2)(B)(ix) – This states that the wastewater shall not contain mercury, however there is a mercury limit in Table 5-1.

Table 5-2 – There are no monitoring requirements for the category for Vehicle Maintenance. MDC requests an annual oil & grease monitoring requirement for Vehicle Maintenance facilities.

Section 5(c)(1) – Reporting of DMRs shall be submitted to the POTW. The DEEP does not have the authority to require that the POTWs receive and manage the DMRs for MISC GPs.

Section 5(c)(2) – It is unclear why the reporting requirement is set to less than 10,000 gallons? Although this does eliminate many facilities from reporting, where did the 10,000 gallon value come from? This is different from the requirements in the existing MISC GP.

Section 5(d) – Requires reporting violations to the POTW only which places all the enforcement on the POTW and not DEEP even though the MISC GP is a DEEP permit. The DEEP should provide assistance to the POTW with enforcement of violations.

Section 5(e)(3)(A) – Requires the POTW to review and approve of any expansion or alteration. This could be a significant workload for the POTW. The DEEP should provide assistance with this process.

Section 5(e)(3)(B) – This requires notification to the POTW instead of DEEP. The DEEP should be included in this notification.

Section 5(f)(12)(A)(i)9. – Requires that the POTW visually inspect each oil water separator. This should be revised to state that this is only for new registrations that were not previously approved by the POTW or DEEP.

Section 5(f)(12)(iii) – Please provide a list of all vehicle maintenance facilities with collection and/or treatment systems that do not meet the specifications of Section 5(f)(12)(A)(i) or (ii) that were previously approved by the commissioner.

Section 7 (a) (3) and (4) – The POTW may grant minor variances? What is considered “minor”? Minor variances should be made on DEEP forms but these forms have not been approved by the POTWs. This will be confusing to facilities.

Definitions Section – The definition of Food Processing Wastewaters refers to “Appendix A of this general permit”. This reference to Appendix A should be deleted.

The POTW Authority is the “chairperson” of the WPCA. This has a significant impact to the whole document since the “chairperson” is the only person that can authorize a registration or receive reports. POTWs should be allowed to designate who they want to approve of registrations.

The definitions of Process and Non-process Wastewater should be added.

#### SIU General Permit Comments

MDC has the following list of specific concerns for the SIU General Permit:

Can DEEP provide a list of all of the current permittees for MDC, by town, who would be covered under this proposed SIU GP? When will this be available?

Section 3(B)(9) - The MDC does not agree that an independent certification by a Qualified Professional Engineer is required for Water Treatment Wastewater. The MDC has several Qualified Professional Engineers on staff that can certify compliance with the SIU General Permit registration. Therefore, the MDC requests that this section not be required for Water Treatment Wastewater.

Section 4(c)(1)(A) - The General Statute 22a-6f does not reference metal finishing wastewater fees. The DEEP should provide justification of the required fees of \$6,250 and \$3,125.

Section 4(c)(2)(T) - The requirements of a water treatment residuals management plan are excessive and unnecessary. There is no DEEP regulation referencing this requirement. The receiving POTW should determine what requirements the water treatment residuals should meet to provide an approval for acceptance of the residuals. Therefore, this section should be removed from the General Permit registration requirements.

Section 5(a)(2)(A)(vi) - This is poorly stated. What does “threatens pollution” mean?

Section 5(c)(1)(A)(i) and (ii) - Since the DEEP has not been timely in issuing approval of NetDMR registrations for new General Permit applications, the timeline for reporting using NetDMR should be 120 days after DEEP has issued approval of the facility’s Net DMR registration.

Section 5(c)(2) - Remove “Water Pollution Control Authority(ies)” and replace with “POTW Authority” to be consistent with the rest of the General Permit.

Section 5(d)(1) - Remove “local WPCA” and replace with “POTW” to be consistent with the rest of the General Permit.

Section 5(d)(3) - The MDC requests that the POTW also receive a copy of the detailed written explanation of any violation of effluent limitations or general permit conditions.

Section 5(e)(2)(A) - The requirement to prepare an Operation and Maintenance Plan should only be required if the wastewater requires treatment, beyond settling, to meet the effluent limits in the General Permit.

Section 5(e)(2)(B) - The requirement to prepare a Spill Prevention and Control Plan for the activity should only be required if the facility meets the applicability requirements identified in 40 CFR Part 112.

Section 5(e)(3)(A) - The permittee should also notify the POTW prior to any expansion, alteration, increase in wastewater discharge flow.

Section 5(e)(3)(B) - The permittee should also notify the POTW.

Section 5(e)(4)(B)(vi) - This requirement should be removed, the facility should be able to determine what percent solids are best for the discharge system to the POTW. This may differ for different facilities based on the facility configuration.

Table 5B-3 – Food Processing Wastewater facilities generating less than 1,000 gpd should be required to take an initial sample for Total Fats, Oils and Grease. If the sample is greater than 100 mg/l, the facility should be required to monitor the discharge quarterly. Vehicle maintenance facilities should be required to take an initial sample for Oil and Grease, TPH. If the sample is greater than 100 mg/l, the facility should be required to monitor the discharge quarterly.

Section 5B(c)(3) – This section needs to contain more details from the General Permit for the Discharge of Wastewater Associated with Food Service Establishments (FOG General Permit). Section 5(d) of the FOG General Permit is titled FOG Management Equipment Maintenance and is approximately two pages of requirements. Any of these requirements not included in the proposed SIU General Permit should be added. Paragraph (10) refers to the prohibition of chemicals, biological additives, etc. This is critical to be added to this General Permit for any Food Processing Wastewater facilities generating fats, oils and grease.

Section 5B(c)(3)(B)(i) - The MDC requests that the grease trap should meet the treatment requirements provided in the Section 5(b) of the General Permit for the Discharge of Wastewater Associated with Food Service Establishments.

Section 5B(c)(3)(B)(ii) - The MDC requests that the permittee maintain a log onsite of inspections and record oil and grease and depth of solids.

Section (11)(B) - The MDC requests that residuals are analyzed annually instead of every six months. What is the purpose of requiring analysis at six month intervals?

Section (11)(C) - The MDC requests that the report submittal date is changed to March 31, since there are several other annual reports due to DEEP by January 31.

If you have any comments or wish to discuss the comments provided by MDC feel free to contact me at (860) 278-7850 ext. 3335. In addition, MDC requests DEEP create a work group with stakeholders to discuss these General Permits in detail with DEEP.

Very Truly Yours,  
THE METROPOLITAN DISTRICT



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