

Response to Comments on Draft National Pollutant Discharge Elimination System (NPDES) Permit No. MA0001830 – Aggregate Industries, Swampscott.

Introduction:

In accordance with the provisions of 40 C.F.R. §124.17, this document presents EPA's responses to comments received on the Draft NPDES Permit (MA0001830). The responses to comments explain and support the EPA determinations that form the basis of the Final Permit. The Aggregate Industries Draft Permit public comment period began March 12, 2008 and ended April 10, 2008. Comments were received from the permittee on the Draft Permit.

The Final Permit is substantially identical to the Draft Permit that was available for public comment. Although EPA's knowledge of the facility has benefited from the various comments and additional information submitted, the information and arguments presented did not raise any substantial new questions concerning the permit. EPA did, however, make certain clarifications in response to comments. These improvements and changes are detailed in this document and reflected in the Final Permit. A summary of the changes made in the Final Permit are listed below. The analyses underlying these changes are explained in the responses to individual comments that follow.

Changes in Final Permit:

1. Part I.A.1, Footnote 1 has been revised as follows:

Samples taken in compliance with the monitoring requirements specified above shall be taken at a point representative of all the discharge from the site through the outfall, prior to mixing with the receiving waters. Within sixty (60) days of the effective date of this permit, the permittee shall develop an appropriate outfall design to collect representative samples of the discharge from the holding pond to Foster Pond and initiate local/state permitting of the new outfall design. Within six (6) months of the effective date of this permit, the permittee shall implement the appropriate outfall design to collect representative samples of the discharge from the holding pond to Foster Pond. **The permittee shall submit the final design plans to EPA within sixty (60) days of the effective date of this permit.**

2. Part I.A.2, Footnote 1 has been revised as follows:

Samples take in compliance with the monitoring requirements specified above shall be taken at a point representative of all the discharge from the site through the outfall, prior to mixing with the receiving waters. Within ninety (90) days of the effective date of this permit, the permittee shall install a flow metering device and reconstruct the monitoring location in order to collect representative samples of all the discharge through Outfall 002. Prior to installation of the flow metering device, the permittee shall continue to estimate the flow as it has done in the past (by extrapolation of rainfall data and surface area drainage).

3. Part I.A.1, the requirement to sample for µg/L ammonia has been changed to mg/L, as this is the common unit of measurement for ammonia.
4. Part I.A.2, the requirement to sample during wet weather conditions has been added as Footnote 2.

Comments 1-4 from Aggregate:

Comment 1: The **Name of Permittee** should be changed to reflect our legally recognized corporate name of Aggregate Industries – Northeast Region, Inc.

Response to Comment 1: The name of the permittee on page 1 of the Final Permit has been changed from **Environmental Quality and Real Estate** to **Aggregate Industries – Northeast Region, Inc.** to be consistent with the legally recognized corporate name of the permittee.

Comment 2: Footnote 1 of the **Draft Permit** requires that Aggregate “implement an appropriate outfall design” within 90 days of permit issuance for **Outfall 001**. This requirement does not contemplate potential permitting and/or construction delays that may take up to six months or more. Please consider qualifying this requirement to account for local permitting processes and substitute language that the permittee will initiate local/state permitting of a new outfall design within 60 days of permit issuance. We have shared a draft design with US EPA permitting staff but would likely need additional time to refine design based on final permit conditions.

Response to Comment 2: The permit has been changed to reflect the request of the permittee to require that the permittee initiate local/state permitting of a new outfall design within 60 days of permit issuance. Additionally, the permittee is required to **develop** the appropriate outfall design to collect representative samples of the discharge from the holding pond to Foster Pond within this 60 day time period.

The requirement in Footnote 1 that the permittee **implement** an appropriate outfall design within 90 days of permit issuance for Outfall 001 has been extended to within six (6) months of permit issuance to account for potential permitting and/or construction delays that may occur.

Additionally, the phrase “for review and approval” has been removed from Footnote 1, as EPA cannot commit in advance resources for review of the outfall design since it will depend on the resources available and the extent of competing priorities. These changes are reflected in Footnote 1 of Part I.A.1, and summarized above.

Comment 3: The **Sample Collection and Use** and **Dilution Water** requirements in **Attachment 1 of the Draft Permit** calls for toxicity testing collection of receiving water control samples “immediately upstream of the permitted discharge’s zone of influence.” The configuration of the pond and **Outfall 001** essentially places the

outfall in a headwaters location and therefore there is no upstream location to sample from. Please consider alternative language that would allow controls samples to either be collected from an area adjacent to the outfall location (considered outside the zone of discharge influence) or identify a default protocol that accounts for the physical impediments to sampling as the draft language currently requires.

Response to Comment 3: Attachment 1 of the Draft Permit –*Freshwater Chronic Toxicity Test Procedure and Protocol*, is a standard Permit attachment; therefore the language shall not be changed to accommodate this unique situation. However, *Short-Term Methods For Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms* (EPA-821-R-02-013) states in Part 7.3.1 (Use of Receiving Water as Dilution Water) that:

If the objectives of the test require the use of uncontaminated receiving water as dilution water, and the receiving water is uncontaminated, it may be possible to collect a sample of the receiving water upstream of, or close to, but outside of the zone influenced by the effluent.

Therefore, the permittee may collect a sample “close to, but outside of the zone influenced by the effluent,” as requested.

Comment 4: Outfall 002 has new/updated requirements under **Effluent Monitoring and Monitoring Requirements** of the **Draft Permit** and the **Description of Discharge, Discharge Location and Proposed Permit Effluent Limitations and Conditions** in the **Fact Sheet**. Please consider adding language to the permit and supporting materials that allows for: 1) 90 days to install a flow metering device and re-construction of the monitoring location. Outfall 002 does not experience continuous flows and currently relies on extrapolation of rainfall data and surface area drainage to establish a reportable flow. Furthermore, local permitting may be required to re-construct this closed drainage system; and 2) Allow for 90 days to prepare and file an NOT for termination of MSGP coverage based on the progress of outfall metering and reconstruction.

Response to Comment 4: The permit has been changed to reflect the request of the permittee to allow 90 days for installation of a flow metering device and reconstruction of the monitoring location. Prior to installation of the flow metering device, the permittee shall continue to estimate the flow as it has done in the past (by extrapolation of rainfall data and surface area drainage). The change is reflected in Footnote 1 of Part I.A.2, and summarized above. The fact sheet is a final document and therefore shall not be changed in response to this comment. However, this response serves to document the requirement that the permittee install a flow metering device and reconstruct the monitoring location within 90 days from the effective date of this permit.

Coverage under the MSGP will not be necessary after the Final Permit becomes effective, regardless of outfall metering and reconstruction progress. Aggregate

should prepare and file an NOT for termination of MSGP coverage as soon as possible after the effective date of this Final Permit.

Additional Clarifications:

Upon detailed review of the draft permit, two sampling clarifications were necessary, as explained below.

In Part I.A.1 of the permit, the requirement to sample for $\mu\text{g/L}$ ammonia was changed to mg/L , as this is the common unit of measurement for ammonia.

In Part I.A.2 of the permit, the requirement to sample during wet weather conditions in order to collect a representative sample from Outfall 002 has been added as Footnote 2. Since the discharge from Outfall 002 consists of storm water and dust control runoff, in order to collect a representative sample of this discharge, the sample must be taken during a representative storm event. EPA believes sampling during a storm which is greater than 0.1 inches in magnitude, within the first 30 minutes of discharge, will provide a representative sample of the “first flush” of pollutants from this outfall. Therefore, this language has been added in Part I.A.2, at Footnote 2.