

Response to Public Comments

In accordance with the provisions of 40 Code of Federal Regulations (CFR) §124.17, this document presents the United States Environmental Protection Agency's response to comments received on the following draft National Pollutant Discharge Elimination System (NPDES) general permits for remediation activity discharges – the Remediation General Permit (RGP):

Massachusetts General Permit, Permit No. MAG910000
New Hampshire General Permit, Permit No. NHG910000

From August 18, 2016 to September 19, 2016, the United States Environmental Protection Agency (EPA) solicited public comments for the draft RGP for sites located in the Commonwealth of Massachusetts and the State of New Hampshire which discharge as a result of remediation activities from eight categories: 1) Petroleum-related site remediation; 2) Non-petroleum-related site remediation; 3) Contaminated/formerly contaminated site dewatering; 4) Pipeline and tank dewatering; 5) Aquifer pump testing; 6) Well development/rehabilitation; 7) Dewatering/remediation of collection structures; and 8) Dredge-related dewatering. This document represents EPA's response to comments received on the draft RGP.

After a review of the comments received, EPA has made a final decision to issue the RGP authorizing the remediation activity discharges. Although EPA's decision-making process has benefitted from the comments and additional information submitted, the information and arguments presented did not raise any substantial new questions concerning the RGP. Therefore, the final RGP is substantially similar to the draft RGP that was available for public comment.

EPA did, however, make minor changes to the final RGP based on comments received. The rationale underlying these changes are explained in the responses to individual comments that follow and are reflected in the final RGP. Comments received in writing are organized by commenter and some have been paraphrased for length or clarity. EPA has also corrected typographical errors and/or inconsistencies in the draft RGP. Except when directly stated in response to a specific comment, these corrections do not result in a change to any effluent limitation or condition of the final RGP.

In the fact sheet that accompanied the draft RGP, EPA stated that we would seek concurrence from the United States Fish and Wildlife Service (FWS) regarding EPA's determination of effects on endangered species. Following the release of the draft RGP, EPA had discussions with FWS on this matter. Based on discussions with FWS, EPA has determined that this general permit has "no effect". The reason for this determination is because each Notice of Intent (NOI) that is submitted must assess site-specific endangered species impacts using FWS's Information, Planning, and Conservation (IPaC) system mapping tool website. Based on the findings using the IPaC website, the operator can either make a determination of impacts or if there are questions, seek input from FWS directly. Since each NOI is individually screened prior to authorization, the general permit has no effect. EPA requested concurrence from the National Marine Fisheries Service (NMFS) regarding EPA's determination of effects on endangered species under their jurisdiction. Concurrence was received from NMFS, dated January 13, 2017.

Copies of the final permits may be obtained from EPA Region 1's RGP website at: <https://www.epa.gov/region1/npdes/rgp.html>; or by writing or calling EPA's NPDES Stormwater and Construction Permits Section (OEP 06-1), Office of Ecosystem Protection, 5 Post Office Square, Suite 100, Boston, MA 02109-3912; Telephone: (617) 918-1989.

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Public Comments

A. Comments submitted by Joe Callahan, Environmental Strategies and Management, Inc.

Comment A.1

Are pH and temperature required to be analyzed for every permit? If so, are treatment system operators automatically certified to collect those parameters since they are immediate samples (i.e., as opposed to laboratories being certified to analyze samples for specific compounds or groups of compounds)? Our operators are trained to collect pH with field measuring meters that are calibrated with buffer solution and meet EPA Method 150.

Response to Comment A.1

pH monitoring is required for all sites in the Notice of Intent (NOI). pH effluent limitations apply to all sites. Appendix IV, Part I.D.4.c. specifies the NOI requirement. Part 2.3.1 of the permit specifies the pH effluent limitations for sites in Massachusetts and Part 2.4.1 of the permit specifies the pH effluent limitations for sites in New Hampshire. EPA has revised the footnotes pertaining to pH in Parts 2.3.1 and Part 2.4.1 of the permit to clarify this applicability. Sampling and analysis for pH can be conducted by an operator so long as the sampling quality control/quality assurance, test method and minimum level requirements specified in the RGP are met. Method 150.2 is an approved test method in 40 CFR Part 136 for measurement of pH using a pH meter.

Temperature monitoring is required for all sites in the NOI. Temperature effluent limitations apply on “a case-by-case basis for sites that indicate the presence of heat as a pollutant in their NOI, or discharges EPA and/or the State determine are likely to contain residual heat” (see Section C.3.2. of the fact sheet). An example of a discharge that may be subject to the temperature effluent limitations is a discharge that is treated with a thermal treatment technology. Another example of a discharge that may be subject to the temperature effluent limitations is a discharge that is stored in a containment structure exposed to high air temperatures or sunlight for an extended period of time prior to discharge. Appendix IV, Part I.D.4.c. specifies the NOI requirement. Part 2.3.2 of the permit specifies the temperature effluent limitations for sites in Massachusetts and Part 2.4.2 of the permit specifies the temperature effluent limitations for sites in New Hampshire. EPA has revised the footnotes pertaining to temperature in Parts 2.3.2 and Part 2.4.2 of the permit to clarify this applicability. Sampling and analysis for temperature can be conducted by an operator so long as the sampling quality control/quality assurance, test method and minimum level requirements specified in the RGP are met.

Comment A.2

I need further clarification on the approved TPH methods. Under Part 136, the only listed approved method for TPH is 1664A. This method has a detection limit of 5 mg/L. Other methods such as a modified EPA 8100 method with GC analysis can obtain a much lower detection limit (0.2 mg/l) which would be helpful in monitoring for treatment system efficiency and compliance. Can we use this or a similar alternative method? What is the procedure for approval for limited use under Part 135.6?

Response to Comment A.2

EPA Method 1664 revisions A and B, are currently the only approved test methods in 40 CFR 136 for analysis of Total Petroleum Hydrocarbons (TPH). Method 8100 is a surface water method that, prior to the approval of Method 1664, was occasionally specified on a case-by-case basis in NPDES permits for analysis of TPH. However, because an approved test method is available and meets the test method requirements specified in the RGP, including sufficiently sensitive test methods requirements, it is the test method operators are required to use for the purposes of compliance with the RGP.

However, an individual operator may elect to request formal approval of an alternative method under the Clean Water Act Alternate Test Procedure (ATP), described at 40 CFR 136.4 and 136.5. This program provides a mechanism for submission and review for limited use of an ATP for measurement of a pollutant as an alternative to the methods approved at 40 CFR Part 136. An ATP may fall into one of two categories: 1) A method using a determinative technique (e.g., a pollutant detector) different from that in an existing Part 136 method (for method validation and evaluation purposes this type of method is referred to as a new method); or 2) A modification to a Part 136 method that falls outside the scope of the modification flexibility described in the Part 136 method, or at 40 CFR 136.6 (for validation and evaluation purposes this type of method is referred to as an ATP).

If you wish to request approval of EPA Method 8100 for use under a RGP authorization, the Regional ATP Coordinator for Region 1 is Ann R. Jefferies in EPA's New England Regional Laboratory Quality Assurance Branch (Phone: 617-918-8373). In the event an ATP is approved for use by all operators, EPA may incorporate such methods into Appendix VII. You may also use EPA Method 8100 for process control *in addition to* Method 1664 for compliance monitoring.

B. Comments submitted by Jeremy Fennell, Senior Scientist, Epsilon Associates, Inc.

Comment B.1

In section 3g. of the 2010 general permit, there is a very clear exemption for “discharges directly or indirectly to the ground”. The 2016 draft permit does not have such an exemption. This is creating some disagreement among certain entities concerning discharge of hydrostatic test waters from newly built pipelines within uncontaminated sites to vegetated uplands where direct overland flow will not occur to a Water of the U.S. Please provide some clarification and continue this exemption clearly within the 2016 permit.

Response to Comment B.1

EPA believes the commenter is referring to Part I.A.3.g of the 2010 RGP under “Specific Discharges Excluded from Coverage”. This part refers to types of discharges that were excluded, that is, *ineligible*, for coverage under the 2010 RGP. The draft RGP contained the discharges ineligible for coverage in Part 1.3, “Limitations on Coverage”. This part is not intended as a list of discharges *exempt* from NPDES permit coverage. The NPDES permit program is applicable to the discharge of pollutants to Waters of the United States. See §301(a), 33 USC §1311(a). The regulations governing the EPA NPDES permit program are generally found at 40 CFR Parts 122,

124, 125, and 136. Accordingly, discharges to groundwater are not regulated by the NPDES permit program. However, discharges to groundwater *may* be regulated under other discharge permit authorities.

EPA retained each of the ineligible discharges included in the 2010 RGP except when such discharges are either 1) no longer ineligible to obtain coverage under the RGP; or 2) the exclusion was revised to provide greater specificity. With respect to “discharges directly or indirectly to the ground” ineligible for coverage under the RGP, EPA retained the following limitation on coverage:

13. Discharges of treated groundwater into the subsurface under an Underground Injection Control (UIC) Program permit under authority of the Safe Drinking Water Act.

This limitation was retained to provide specificity that *if* a discharge to groundwater requires a permit, the RGP is not the permit program authority under which such discharges can be covered. Such discharges are generally regulated under the UIC Program, as indicated. However, other similar programs, such as State groundwater discharge permit programs, could also apply. EPA also acknowledges that this limitation could retain the phrase used in the 2010 RGP, as requested. Therefore, EPA has revised this limitation on coverage in the final RGP as follows:

13. Discharges directly or indirectly to the ground subject to other program authority, including the Underground Injection Control (UIC) Program under authority of the Safe Drinking Water Act, a State groundwater discharge permit program, or a similar program authority.

Regarding discharges of hydrostatic test waters from newly-built pipelines at uncontaminated sites, if such discharges do not result in the discharge of pollutants to Waters of the United States, the RGP does not apply. However, such discharges *may* be regulated under other discharge permit authorities. If such discharges are expected to occur in Massachusetts, the commenter should contact the Massachusetts Department of Environmental Protection regarding the applicability of a Groundwater Discharge Permit. If such discharges are expected to occur in New Hampshire, the commenter should contact the New Hampshire Department of Environmental Services regarding the applicability of a Groundwater Management Permit (GMP) or Groundwater Release Detection Permit (GRDP).

C. Comments submitted by Lauren Konetzny, Project Manager, CDW Consultants, Inc.

Comment C.1

Appendix 4 Part 1 Section I: “EPA’s NOI processing time is thirty (30) days. The effective date of coverage will be the date indicated in the authorization to discharge provided to the operator by EPA in writing and will generally be the first day of the month following EPA’s NOI processing time.”

It is proposed that the RGP review process has been extended from fourteen days to at least 30 days. Based on the above statement, the review period could be as long as two months. (If the NOI is submitted 29 days prior to the end of the month, the end of the EPA’s 30-day processing

time would fall on the 2nd day of the month and the effective date would then not be until the first day of the following month.) Please consider reducing the overall time of the effective date of coverage as such an extended approval period could significantly delay projects, incurring substantial cost particularly in the case of short-term dewatering of contaminated sites required for construction projects. Often times the need for dewatering is dependent on the groundwater table level which varies based on the rainfall levels which cannot be reliably predicted up to two months in advance. Therefore, such a long approval period could result in the submittal of numerous NOIs which are never needed, wasting the EPA's resources on review of such NOIs and the applicant's resources on the preparation of unnecessary NOIs, associated sampling, and installation of treatment systems which are never used other than to collect the proposed effluent sample required for submission of the NOI. This could also result in the generation of unnecessary remedial waste from the treatment systems which were only utilized to collect the required effluent sample.

Response to Comment C.1

EPA's NOI process for the RGP for a *new* discharge was proposed in the draft RGP as follows:

1. An operator submits a NOI requesting coverage under the RGP at least thirty (30) days in advance of when a discharge is expected to initiate. This requirement is specified in Part 3.3 of the draft RGP and Appendix IV, Part 1. In the 2010 RGP, this requirement was at least fourteen (14) days in advance of when a discharge is expected to initiate.
2. EPA reviews the NOI for completeness. If complete, EPA posts the NOI for a minimum of seven (7) days on EPA's RGP website.¹ This requirement is specified in Appendix IV, Part I. This requirement is unchanged from the 2010 RGP.
3. EPA reviews the NOI in order to make a determination of coverage. If EPA determines that a discharge is eligible for coverage under the RGP, EPA issues a written authorization to discharge, which specifies the date coverage is effective. This requirement is specified in Part 2.1 and Part 3.6 of the draft RGP and Appendix IV, Part 1. This requirement is unchanged from the 2010 RGP.

The specification of NOI submission at least thirty (30) days in advance of a discharge and a seven (7) day public posting does approximate a minimum review period for NOIs. While there is no maximum review period for NOIs, discharges under some activity categories covered under this general permit can be authorized relatively quickly, such as when discharges contain few parameters, less complex treatment systems or will occur over a very short duration. This requirement also does not address emergency situations, as in other EPA-issued general permits, such as EPA's Construction General Permit and EPA's Pesticide General Permit.

Therefore, EPA has revised the final RGP to reduce the minimum NOI process time, as requested. The final RGP specifies that an operator with a *new discharge* must submit a NOI requesting coverage under the RGP at least seven (7) days in advance of when a discharge is expected to initiate. Further, EPA has specified requirements for an *emergency discharge*. The remaining NOI process remain unchanged, including requirements for an *existing discharge*.

¹ Available at: <https://www.epa.gov/region1/npdes/rgp.html>.

EPA will continue to post NOIs for a minimum of seven (7) days, once EPA determines a NOI is complete. For a *new* or *existing discharge*, EPA will continue to provide written authorization to discharge.² Failure to receive from EPA written notification of permit coverage means that an operator is not authorized to discharge under this general permit, unless the discharge is an *emergency discharge*.

Regarding an *emergency discharge*, EPA recognizes that obtaining RGP coverage following the normal procedures is not always feasible in emergency situations. Although eligibility provisions for emergency-related discharges were not included in the 2010 RGP, EPA has included this subject discharge in the final RGP in consideration of this comment to ensure that the authorization process does not interfere with emergency-related remediation and dewatering projects required to avoid endangerment to human health, public safety, or the environment. EPA has specified permit eligibility for this subject discharge, and consequently new and existing discharges, in Part 1.1 of the RGP. For the purposes of this general permit, a discharge is considered an emergency discharge when: 1) the discharge is a result of remediation and/or dewatering activities conducted in response to a public emergency (e.g., natural disaster, which includes, but is not limited to tornadoes/hurricanes/tropical storms, earthquakes, mud slides, or extreme flooding conditions; or widespread disruption in essential public services); and 2) the discharge requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services.

The provisional coverage for an eligible emergency discharge is specified in Part 1.5 of the permit. An emergency discharge is considered provisionally covered under the RGP immediately upon the initiation of discharges on the condition that: 1) A complete and accurate NOI is submitted in accordance with Part 3.3 within fourteen (14) days after the emergency discharges commence; 2) Notification is provided to EPA in accordance with Part 4.6.3.b and c prior to commencing an emergency discharge when feasible, but no later than twenty-four (24) hours after such discharges commence; and 3) Monitoring proceeds in accordance with the monitoring requirements specified in Part 4.4. as for short-term discharges for the duration of provisional coverage. Provisional coverage is authorized for up to fourteen (14) days, after which either: 1) The operator has received written authorization to discharge from EPA; or 2) The operator has submitted a NOT to EPA. The NOI requirements for an emergency discharge are specified in Part 3.3 of the permit. An operator is required to provide documentation in the NOI submitted to EPA to substantiate the occurrence of a public emergency. By providing operators of these projects with the ability to immediately begin work, and to postpone the NOI submission for fourteen (14) days, EPA intends that these projects can proceed without delay.

Regarding the effective date of permit coverage, the effective date of permit authorization will continue be the date indicated in the written authorization to discharge provided by EPA. To prevent unnecessary confusion, EPA has removed the phrase “and will generally be the first day of the month following EPA’s NOI processing time” from the NOI (Appendix IV – Part 1). The statement “*generally* authorization dates will be the first day of a month”, reflects the requirement in the NOI that an operator specify the month and year permit coverage is needed.

² Where the RGP refers to correspondence in writing from EPA, such correspondence may be by mail, email and/or facsimile transmittal.

The intent of this requirement is to facilitate the reporting of monitoring data and other information through NetDMR for discharges that are expected to occur over a period of twelve (12) months or more. NetDMR generates automated reports based on a calendar month. In order to coincide with the system, the authorization date must be specified as the first day of a calendar month. The reporting requirements begin twelve (12) months from the authorization date.

Regarding the need to submit numerous NOIs, when an operator submits a NOI, unless specifically requested by EPA or the appropriate State, additional NOIs for the same discharge are typically not necessary. An example of when EPA or the States might request an additional NOI could be if there is more than one operator at a particular site.

Regarding sampling requirements for NOI submission, please see Response to Comment C.2, below.

Comment C.2

Section 4.2 Application Monitoring Requirements: “A minimum of one (1) untreated influent sample and one (1) treated effluent sample are required. Sampling must be conducted for any parameter in any contamination type category, if the given individual parameter is present in discharges from that site, as indicated in the NOI submitted to EPA for that site.”

According to this statement, it is proposed that one treated effluent sample is required for submittal of the NOI. This would require that the treatment system is installed prior to the submittal of the NOI, resulting in the treatment system sitting unutilized on the site while the applicant awaits the sampling results, prepares the NOI, and is subject to the one to two-month approval period. These treatment systems are often rented by the applicants. For most short-term discharges, this would result in the system sitting on the Site unutilized for longer periods of time than the system is actually in use, minimally doubling the cost of short-term discharge at contaminated sites. In addition to the significant costs which will be incurred by the extended rental period required for treatment systems by the proposed changes, increasing the NOI application sampling requirements from one influent sample to one untreated influent sample and one effluent sample will increase the cost of the NOI application sampling by approximately \$1000 in order to collect an additional sample for all the NOI parameters. The addition of an effluent sample to the application monitoring requirements after successfully relying upon one influent sample for RCP NOI for so many years is an unnecessary and represents a significant cost increase to the RGP application process. Please considering eliminating the requirement for a treated effluent sample as an application monitoring requirement, minimally for short-term discharges, if not for all discharges. If the treated effluent sample is not eliminated from the application monitoring requirement, please explain the need for this sample given that the discharge is required to meet the Effluent Limitations in Table 2 and that “one (1) sample for both untreated influent and treated effluent must be collected on the first day of discharge” for short-term discharges, insuring that these Effluent Limitations will be met or that BMPs will be followed to minimize or prevent the discharge of pollutants.

Although the draft RGP states in Section 4.2 “If sampling the effluent prior to receiving authorization to discharge under this general permit is infeasible, an additional influent sample

may be substituted for effluent if collected in accordance with the instructions included in Appendix IV, Part 1,” this exemption does not address all of the concerns discussed in the preceding paragraph. Substitution of a second influent sample would eliminate the costs associated with having a remediation system sitting unutilized on a site for months while the application and approval process are completed; however, the draft RGP does not specify when it would be considered infeasible to collect an effluent sample during the application process. The draft RGP also does not discuss the expectations for the collection of a second influent sample, such as must the two influent samples be collected from different locations and whether both influent samples can be collected simultaneously. Please consider eliminating the application monitoring requirement for collection of a second sample. If collection of this second sample is not eliminated, please clarify when it is considered infeasible to collect an effluent sample and what are the requirements for collecting a second influent sample.

Response to Comment C.2

EPA agrees that a requirement to collect untreated influent-only samples will provide data representative of a discharge for the purposes of a NOI. Such sampling will ensure effluent limitations are applied on a conservative basis, which helps ensure water quality standards will be met or exceeded. Therefore, EPA has revised the NOI sampling requirements to specify sampling of untreated influent, as requested, *unless otherwise noted*. By otherwise noted, EPA is referring to NOI monitoring requirements that cannot be conducted on untreated influent samples as specified in the draft RGP. These requirements have been retained, but because the requested change for influent-only monitoring affects the specification of some of these requirements, EPA has made the following revisions:

- Receiving water sampling specified in Appendix IV, Part 1, Section I.B.6 for all sites has been revised to reduce the sampling requirement. Also see Response to Comment C.3, below.
- Source water sampling specified in Appendix IV, Part 1, Section I.C.1 has been revised to remove redundancy.
- Whole Effluent Toxicity testing specified in Appendix IV, Part 1, Section I.D.4.b for Categories I and II has been moved to the monitoring requirements in Part 4.1 of the RGP, to ensure sampling is conducted for effluent-only.
- The effluent-only requirement for hardness for freshwater receiving waters specified in Appendix IV, Part 1, Section I.D.4.c has been revised to influent.
- The parameters specified in Appendix IV, Part 1, Section I.C.1.b have been revised to be consistent with Part 2.1.1 of the RGP.
- NOI sampling may be specified on a case-by-case basis, in the event influent sampling is not feasible. Operators of sites where collection of influent samples for the NOI are not feasible are encouraged to contact the EPA contacts listed on EPA Region 1’s website for the RGP prior to conducting NOI sampling for assistance.³

EPA also agrees that a *minimum* of one (1) untreated influent sample be required of all discharges for the parameters applicable to an Activity Category. EPA has revised Appendix IV,

³ See footnote 1, above.

Part 1, Section I.D to specify a minimum of one (1) untreated influent sample. EPA has eliminated the requirement to collect one (1) treated effluent sample for the NOI, as requested. A second untreated influent sample is not required, *unless otherwise noted*. These changes reduce the minimum sampling required for the NOI, as requested. By otherwise noted, EPA is referring to monitoring requirements in addition to the minimum NOI sampling required in Part 4.2.1 of the draft RGP. Monitoring requirements in addition to the minimum sampling required, as specified in the draft RGP and fact sheet, include, but are not limited to:

- Appendix IV, Part 1, Section I.D.4.h. specified that additional sampling may be required on a case-by-case basis.
- Appendix IV, Part 1, Section I.D.4.i. stated “where a discharge will consist of waters generated from multiple areas of a site across which contamination types and/or concentrations can vary, the applicant must collect samples such that the data provided in the NOI are representative of the expected discharge conditions.” The fact sheet further explained that that “when sampling influent, the grab sample must ensure the highest concentrations of COCs that may be discharged are represented. If COCs or the concentrations of COCs vary widely across a site, sampling must consist of at least three grab samples that are representative of such variability.”
- Part 4.1.1 specified influent monitoring requirements including that “if a monitoring well is used as the representative sampling location for the influent, the monitoring well must be located within the maximum extent of contamination.”

These additional sampling requirements have been retained in the final RGP, but EPA simplified these requirements for clarity and to be consistent with the monitoring requirements specified in Parts 2.1 through 2.4 and Part 4.1 of the permit, including cross-references. Also, because these requirements apply to influent monitoring requirements, rather than the NOI, EPA has moved these requirements to Part 4.1.1 in the final RGP. In summary:

- All sites must collect a minimum of one (1) untreated influent sample.
- All sites must meet the monitoring requirements for influent samples.
- Any site may be required to collect additional samples on a case-by-case basis.

If additional sampling is required, EPA will provide a brief description of the additional sampling required and the reasons for the additional sampling in writing. Examples of when additional sampling may be required include: 1) If a site selects Contamination Type H, Unknown Contamination; 2) If COCs or the concentrations of COCs vary widely across a site. Operators of sites with unknown contamination or contamination that varies widely across a site are encouraged to contact the EPA contacts listed on EPA Region 1’s website for the RGP prior to conducting NOI sampling to minimize delays in NOI processing.⁴ Also see Response to Comment C.3, below.

The revised NOI monitoring requirements included in the final RGP specify the sampling and analysis necessary to evaluate the discharge of pollutants from sites authorized under this general

⁴ See footnote 1, above.

permit and will provide information on the appropriateness of the proposed pollution abatement equipment. Further, this monitoring requires sites to gather data that will enable EPA to determine whether the discharges will impact the water quality of the receiving waters or pose a risk to human health or the environment. Therefore, the NOI monitoring requirements in the permits are included for specific regulatory use in carrying out the CWA. EPA's decision to include activity-specific, site-specific and/or receiving water-specific parameters in the permit is reasonable and consistent with its responsibilities under the Act. EPA expects the frequency of sampling to reduce with time, assuming pollutants are not detected.

Comment C.3

Section 4.2 Application Monitoring Requirements: "Sampling must be conducted for any parameter in any contamination type category, if the given individual parameter is present in discharges from that site, as indicated in the NOI submitted to EPA for that site."

In the above citations a "given individual parameter present in discharges from that site" is interpreted to mean a given individual parameter is detected in the treated effluent sample collected to meet the application monitoring requirement based on the following statement from Appendix IV Part 1 –Notice of Intent (NOI) Instructions and Suggested Form, Section D. Discharge information 4.a.: "all Activity Categories must provide sample results for any parameter included in this general permit, if the given parameter is known or believed present in the effluent." Please consider changing the citation above to "sampling must be conducted for any parameter in any contamination type category, if the given individual parameter is present in the untreated influent from that site at concentrations above Effluent Limitations, as indicated in the NOI submitted to EPA for that site." The parameters within the influent sample which are detected above the Effluent Limitations are the parameters which have the potential to exceed the Effluent Limitations, therefore these parameters are the parameters which should be sampled. If sampling must only be conducted for those parameters which were present in the treated effluent sample collected during the NOI application process, contaminants which were not present in the original NOI application sampling will not be sampled and therefore contaminant breakthrough would not be detected in future sampling. Similarly, please consider changing "all Activity Categories must provide sample results for any parameter included in this general permit, if the given parameter is known or believed present in the effluent," in Part 1 –Notice of Intent (NOI) Instructions and Suggested Form, Section D. Discharge information 4.a. and all similar references to "all Activity Categories must provide sample results for any parameter included in this general permit, if the given parameter is known or believed present in the influent," including references to sampling of receiving waters "if present in the effluent."

Response to Comment C.3

EPA agrees that all Activity Categories must provide sample results in the NOI for any parameter included in this general permit, if the given parameter is present in the untreated influent, in addition to the minimum parameters required for each activity category, given the potential for contaminant breakthrough. However, where EPA states that a parameter (or effluent limitation or monitoring requirement, or other condition) applies when a given parameter is present in discharges from a site, EPA is referring to more than parameters in the untreated influent. EPA is more broadly referring to a parameter that is known or believed present at a site.

A parameter is considered known present if that parameter has been quantified in environmental samples, and such data meet minimum validation requirements (“known” is defined in Part 1.1 of the draft RGP). Where a parameter is likely to be present even if it has not been detected in environmental samples, such as when a parameter is added or generated during a treatment process, such parameters are believed present. EPA has clarified Appendix IV, Part 1 and all similar references to reflect that requirements apply in terms of “known present” and “believed present”. EPA has also provided additional definitions in Part 1.1. Therefore, EPA has not made the requested change that sampling be required for those parameters present in “untreated influent”.

Further, EPA has not made the requested change that sampling be required for those parameters present in untreated influent “at concentrations above Effluent Limitations” for the purposes of NOI submission. The NOI monitoring requirements and the applicability of effluent limitations are specified separately in the RGP. The NOI monitoring requirements specified in the draft RGP, included, but are not limited to:

- Part 2.2.3.c of the draft RGP stated that if a discharge contains any pollutant not limited by the RGP, that the pollutant and concentration be disclosed in the NOI. Appendix IV, Part 1, Section I.D.4.h. specified that additional sampling is required for any parameter present at a site not included in the RGP.
- Part 4.1.1 of the draft RGP required that sampling of the influent, effluent and/or receiving water must yield data representative of the discharge.
- Part 4.2.1 specified that NOI sampling must meet the monitoring requirements specified in Part 2.1.1 and Part 4.1 of the RGP, and required that sampling be conducted for any parameter included in the RGP, if the given parameter is present, and for any parameter included in the RGP where “it is unknown whether the given individual parameter is present or absent.”
- Part 4.2.1.a through d specified the parameters each activity category is required to sample, at a minimum.
- Appendix IV, Part 1, Section I.D.4.h. specified that additional monitoring may be required on a case-by-case basis.

The applicability of effluent limitations and monitoring requirements specified in the draft RGP, included, but are not limited to:

- Part 2.1.1 specified the chemical effluent limitations and monitoring requirements for sites covered under the RGP, including footnote 2, which required that effluent limitations and monitoring requirements apply for any parameter listed if the given parameter is present, and specified the minimum parameters for which effluent limitations and monitoring requirements apply, by activity category and contamination type, for all sites.
- Part 2.1.2 specified the effluent flow limitations for all sites.
- Part 2.2.3.c and 2.2.4 specified that additional effluent limitations may be imposed on a case-by-case basis.
- Part 2.3 specified the pH and temperature effluent limitations for sites in Massachusetts.

- Part 2.4 specified the pH and temperature effluent limitations for sites in New Hampshire.

The applicability of effluent limitations and monitoring requirements are intended to prescribe the *minimum* effluent limitations and monitoring requirements that apply to each activity category based on contamination types and site-specific information. The applicability of effluent limitations and monitoring requirements has been retained in the final RGP. The applicability of effluent limitations in footnote 2 to Part 2.1.1 is *not only* determined by whether or not a given parameter is present, and is *not* determined by whether or not a given parameter is present “at concentrations above Effluent Limitations”. Footnote 3 specifies the minimum effluent limitation that applies when a parameter applies to a site. Footnote 4 specifies when a more stringent effluent limitation may apply. A more stringent effluent limitation or monitoring requirement may also be prescribed under Part 2.2.3.c and 2.2.4. EPA has made minor revisions to the aforementioned parts for clarity and/or consistency.

The NOI monitoring requirements are intended to provide the activity-specific and site-specific information necessary to determine if a discharge is eligible for coverage under the RGP and if the discharge will meet all of the effluent limitations and requirements of the RGP. Thusly, the *minimum* monitoring required for a NOI and the *minimum* monitoring required for discharges should not differ. However, the monitoring requirements specified in Part 4.2.1.a through d are not identical to the monitoring requirements specified in Part 2.1.1, footnote 2 a through f. Therefore, EPA has revised and rearranged the NOI monitoring requirements for clarity and to be consistent with the applicability of effluent limitations and monitoring requirements specified in Part 2.1.1 of the permit. This change corrects inconsistency between the minimum monitoring required for a NOI and the minimum monitoring required for discharges. EPA also made consistent use of the terms “if present” and “any present”, which were used in the draft RGP when specifying the applicability of effluent limitations, but were not used when specifying the NOI monitoring requirements and similar requirements. In summary:

- NOI monitoring must be conducted for any parameter, if present, but not specified in the minimum sampling requirements for an Activity Category.
- NOI monitoring must be conducted for any parameter, if present, but not included in the general permit.
- The minimum parameters required for NOI monitoring are arranged by Activity Category. Exceptions are noted.
- Any site may be required to conduct additional NOI monitoring on a case-by-case basis.

If additional monitoring is required on a case-by-case basis, EPA will provide a brief description of the additional sampling required and the reasons for the additional sampling, in writing. An example of when additional sampling may be required could include when the receiving water is impaired for a parameter not included in the RGP.

Finally, EPA has not made the requested change that receiving water sampling be required for those parameters present in the untreated influent. The draft RGP specified the following receiving water sampling requirements:

- All activity categories were required to sample the receiving water for pH, temperature, hardness (freshwater receiving waters) and salinity (saltwater receiving waters).
- Activity categories I, II, III-G, IV-G, V-G, VI-G, VII-G, and VIII-G were required to sample the receiving water for ammonia, total recoverable antimony, total recoverable arsenic, total recoverable cadmium, total recoverable chromium III and VI, total recoverable copper, total recoverable iron, total recoverable lead, total recoverable mercury, total recoverable nickel, total recoverable selenium, total recoverable silver, and total recoverable zinc, “if present in the effluent”.
- Activity categories III-H, IV-H, V-H, VI-H, VII-H, and VIII-H were required to sample the receiving water for ammonia, total recoverable antimony, total recoverable arsenic, total recoverable cadmium, total recoverable chromium III and VI, total recoverable copper, total recoverable iron, total recoverable lead, total recoverable mercury, total recoverable nickel, total recoverable selenium, total recoverable silver, and total recoverable zinc.

The receiving water sampling requirement for pH, temperature, hardness and salinity has not been changed since the ambient concentrations for these parameters are necessary to calculate water quality criteria and/or water quality-based effluent limitations for all sites. The receiving water sampling requirement for ammonia and total recoverable metals for all sites has not been changed to “if present in the influent”, as requested. Instead, the receiving water sampling requirement for ammonia applies to all sites and total recoverable metals applies to any site “if present and if a dilution factor applies”. EPA has made this alternate change because the ambient concentration for ammonia is necessary to calculate the water quality criteria and/or water quality-based effluent limitation, if necessary. However, when calculating the effluent limitations for total recoverable metals, the ambient concentrations are necessary only if the water quality-based effluent limitation will not apply at zero dilution. In other words, if zero dilution applies, the effluent limitation is set equal to the water quality criterion, and information regarding the receiving water concentration is unnecessary. This change ensures the information needed to calculate water quality criteria (ammonia) and site-specific effluent limitations (total recoverable metals, and, on a case-by-case basis, ammonia) will be collected, and reduces the sampling requirements for any site where individual total recoverable metals are not present and where a dilution factor is not requested. In summary:

- All activity categories are required to sample the receiving water for pH, temperature, hardness (freshwater receiving waters), salinity (saltwater receiving waters), and ammonia.
- All activity categories are required to sample the receiving water for total recoverable antimony, total recoverable arsenic, total recoverable cadmium, total recoverable chromium III and VI, total recoverable copper, total recoverable iron, total recoverable lead, total recoverable mercury, total recoverable nickel, total recoverable selenium, total recoverable silver, and total recoverable zinc, if present and if a dilution factor applies.

Comment C.4

Appendix IV Part 1 –Notice of Intent (NOI) Instructions and Suggested Form, Section D. Discharge information 4. E: “An applicant must submit a NOC to EPA if: 1) the concentration of

any parameter present in the treated effluent differs significantly from the untreated effluent once effluent sampling is feasible.”

Should this read “An applicant must submit a NOC to EPA if: 1) the concentration of any parameter present in the treated effluent differs significantly from the untreated influent once effluent sampling is feasible?”

Response to Comment C.4

Yes, Appendix IV, Part 1 as noted should have stated: “An operator must submit a NOC to EPA if: 1) the concentration of any parameter present in the treated effluent differs significantly from the untreated influent once effluent sampling is feasible.” EPA has made this correction in the final RGP. However, because this requirement applies to a NOC, rather than the NOI, EPA has moved this requirement to Appendix IV, Part 2 in the final RGP.

Comment C.5

In Table 2 there are no units listed for the WQBEL for Carbon Tetrachloride; please include the correct units.

Response to Comment C.5

The correct units, $\mu\text{g/L}$, have been added to Table 2 in the final RGP.

Comment C.6

Section 2.5 Special Conditions, 2. Best Management Practices (BMPs) e.: “An Administrative Controls BMP must include, at a minimum...ii. Documentation of employee training conducted at least annually (or once, for discharges lasting less than one year) for site personnel who have direct or indirect responsibility for ensuring compliance with this general permit.”

Please clarify what types of employee training are required/expected.

Response to Comment C.6

As revised for clarity, the RGP requires that employee training be conducted at least annually for site personnel who have direct responsibility for ensuring compliance with this general permit, or once, for discharges expected to last twelve (12) months or less. The employee training BMP requirement is one of several general BMPs included in the draft RGP. How the employee training is implemented for site personnel who have direct responsibility for ensuring compliance with this general permit is expected to vary across individual sites, depending on the site-specific BMPs selected by an operator. In general, EPA expects that employee training will ensure employees understand the permit requirements, are trained in any BMPs used to meet the permit requirements, such as the proper operation and maintenance of a treatment system, are trained in any Standard Operating Procedures they will be expected to implement, such as sample collection procedures, and are familiar with the notification and reporting requirements of the permit. Additional guidance regarding NPDES-related employee training BMPs can be found in EPA’s *Guidance Manual for Developing Best Management Practices*.⁵

⁵ Refer to Section 2.3.2.5 Employee Training in EPA 833-B-93-004; October 1993.

Comment C.7

Section 4.1 Monitoring Requirements 2. Monitoring Frequency a. ii.: “Continuing a minimum of six (6) months and ten (10) samples for existing discharges, or five (5) months and five (5) samples for new discharges, prior to submission of any request for modification of this monitoring frequency in accordance with Part 5.1 below.”

Please consider using one consistent monitoring period for both existing and new discharges prior to submission of any request for modification of monitoring frequency to simplify the RGP process.

Response to Comment C.7

EPA agrees that one consistent monitoring period for both existing and new discharges prior to submission of any request for modification of monitoring frequency is appropriate and will simplify the RGP process. EPA has revised the routine monitoring frequency requirement specified in Part 4.1.2.ii to “Continuing a minimum of six (6) months and ten (10) samples prior to submission of any request for modification of this monitoring frequency in accordance with Part 5.1 below.” EPA notes that the existing monitoring requirements for treatment system startup will yield ten (10) samples in six (6) months (two samples required during week 1, followed by one sample per week for 3 weeks, followed by one sample per month thereafter).

Comment C.8

In Sections 4.3 & 4.4 2. Treatment System Startup, required laboratory turnaround times vary. For the first week sampling required laboratory turnaround times is 5 days for discharges lasting more than a year, 3 days for discharges lasting less than 24 hours, 3 days for discharges lasting less than 7 days and more than 24 hours, and 5 days for discharges lasting more than 7 days and less than a year. Please consider using one required laboratory turnaround time for treatment system startup sampling for all discharges lasting more than 24 hours to simplify the RGP process. Requiring shorter laboratory turnaround times for long-term discharges does not make sense because long-term discharges with contaminants above Effluent Limits will likely result in the discharge of more contaminants to a receiving water than short-term discharges; therefore, laboratory turnaround times for long-term discharges should be at least as conservative as those of short-term discharges. Please also consider eliminating the requirement for a 3-day laboratory turnaround time for discharges lasting less than 24 hours. This expedited turnaround time is unnecessary given that sample results will be received after the discharge has already been terminated; therefore, this represents an unnecessary cost to the operator.

Response to Comment C.8

EPA agrees that requiring consistent laboratory turnaround times for all discharges will simplify the RGP process. EPA has revised the laboratory turnaround times for treatment system startup to no more than five (5) days during the first week of discharge for any discharge, and no more than ten (10) days thereafter. All laboratory turnaround times specified as three (3) days have been eliminated.

Comment C.9

Section 5.2 Notice of Termination (NOT) 1. Requirement to Notify: “Operators must submit a

written Notice of Termination (NOT) to EPA and the appropriate State in accordance with Part 4.6, above, signed in accordance with 40 CFR §122.22 and in accordance with the instructions provided in Appendix IV, Part 3, Part 3 when one or more of the following conditions have been met: ...c. There is a change in ownership.”

This contradicts Section 5.1.2.f. which indicates that a NOC can be filed for a transfer of ownership so long as the operator authorized to discharge under this general permit remains unchanged.

Response to Comment C.9

There are one or more errors in both Section 5.1.2.f. and Section 5.2. A NOC may be submitted for notification of a change in ownership, so long as the operator (i.e., the permittee authorized in EPA’s written authorization to discharge) remains unchanged. When a change in operator occurs, a NOT must be submitted by the authorized operator. A new NOI must then be submitted by the new operator. EPA has corrected this error in Appendix IV, Part 3, item c in the final RGP. EPA has also corrected any instance regarding changes in ownership to remove use of the term “transfer”, including Section 5.1.2.f. as noted in the comment.

D. Comments submitted by Cameron Po, Project Engineer, SAK Environmental, LLC.

Comment D.1

A discharge will consist of presumably clean hydrant water supplied by a municipality after use in a pressure test of a new firefighting hydrant system. This system consists of new HDPE piping and contains no pollutants or solids. We plan on discharging to a surface water (Salem Harbor). This site is currently covered under EPA’s Construction General Permit.

It appears this is discharge would not meet the requirements for needing coverage under the 2016 RGP. Please confirm if this is indeed correct.

Response to Comment D.1

EPA’s Construction General Permit (CGP) authorizes the discharge of certain allowable “non-stormwater discharges” that include the following:

- i. Discharges from emergency fire-fighting activities;
- ii. Fire hydrant flushings;
- iii. Landscape irrigation;
- iv. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
- v. Water used to control dust;
- vi. Potable water including uncontaminated water line flushings;
- vii. Routine external building washdown that does not use detergents;
- viii. Pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used. You are prohibited from directing pavement wash waters directly into any surface water, storm drain inlet, or stormwater

- conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
- ix. Uncontaminated air conditioning or compressor condensate;
 - x. Uncontaminated, non-turbid discharges of ground water or spring water;
 - xi. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and
 - xii. Construction dewatering water that has been treated by an appropriate control under Part 2.1.3.4 [of EPA's 2012 CGP].

Since hydrant flush waters and potable water, including uncontaminated water line flushings, are considered allowable non-stormwater discharges under your CGP, the discharge described is allowed under the CGP for this site. Based on the information provided, additional NPDES coverage under the RGP for this discharge would not be required. Some other EPA stormwater permits allow these types of non-stormwater discharges, including EPA's Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP), and Region 1's Municipal Separate Storm Sewer System (MS4) permits.

If a site is not covered under one of the NPDES permits noted above, a site with such discharges would be *eligible* to obtain coverage under the RGP under Category IV, Dewatering of Pipelines and Tanks. Where operators are uncertain whether NPDES permit coverage must be obtained for a proposed discharge, operators are encouraged to contact the EPA contacts listed on EPA Region 1's website for the RGP for assistance.⁶

Comment D.2

I am inquiring about obtaining coverage for discharge of water resulting from hydrostatic testing of new construction boiler systems consisting of piping, drums, and radiator assemblies. We will be adding ammonia and an oxygen scavenger to the water for the testing, and MSDSs can be provided, when available.

The source water will consist of demineralized water with the following characteristics:

- a pH value between 10-11 SU;
- 100 ppb O₂ level;
- less than 1 ppm of total dissolved solids; and
- less than 0.5 ppm of Cl.

The treatment system for this water will involve:

- bag filter assemblies;
- carbon treatment; and
- pH adjustment.

⁶ See footnote 1, above.

Would this discharge meet the requirements for coverage under the 2016 RGP, and if so, would the treatment method be an acceptable approach to meet water quality standards? Does a 30-day waiting period from submittal of the NOI until we would be able to discharge apply?

Response to Comment D.2

Regarding whether the discharge described would meet the requirements for coverage under the RGP, the requirements for coverage are included in Part 1.5 of the RGP. To obtain authorization to discharge under this general permit, an operator must:

1. Have a discharge type described in Part 1.1 of this general permit;
2. Have a discharge located in the areas listed in Part 1.2 of this general permit;
3. Meet the eligibility requirements in Part 1.3 and Part 1.4 of this general permit;
4. Submit a complete and accurate Notice of Intent in accordance with the requirements of Part 3 of this general permit; and
5. Receive a written authorization to discharge from EPA.

Part 1.5 of the RGP further requires that “the discharge must meet applicable water quality standards and all effluent limitations and requirements included in Part 2 and, if applicable, Part 6 of this general permit. The operator must also meet the requirements included in Part 4 and 5 of this general permit.”

The comment does not provide enough information for EPA to make a determination of coverage for this specific discharge. However, EPA will generally explain how the discharge described in the comment appears to meet each of the requirements for coverage in Part 1.5 of the RGP. For the five requirements aforementioned:

- This specific discharge appears to meet Part 1.1 of the RGP, as it falls under one of the eight general activity categories *eligible* for coverage under the RGP, Activity Category IV, dewatering of pipelines and tanks.
- This specific discharge appears to meet Part 1.2 of the RGP because it will be located in Massachusetts.
- Part 1.3 of the RGP includes the limitations on coverage. So long as none of the discharges ineligible for coverage apply, this specific discharge would meet the eligibility requirement referring to this part. Part 1.4 of the RGP includes the special eligibility determinations and primarily refer to Appendix I and III. So long as the discharge will not affect endangered species or their critical habitat and will not affect historic properties, this specific discharge would meet the eligibility requirement referring to this part.
- Part 3 of the RGP specifies the NOI requirements and primarily refers to Appendix IV – Part 1, where the suggested NOI format can be found. So long as a complete and accurate NOI is submitted in accordance with Part 3, this specific discharge would meet the eligibility requirement referring to this part.
- Assuming EPA determines the discharge is eligible for coverage under the RGP, written authorization to discharge from EPA will be provided.

Where operators are uncertain whether a proposed discharge will meet the requirements for coverage under the RGP, operators are encouraged to contact the EPA contacts listed on EPA Region 1's website for the RGP for assistance.⁷

Regarding whether the treatment method would be an acceptable approach to meet water quality standards, Part 2.5.2.d of the RGP requires the selection, design, installation and proper operation and maintenance of pollution control technologies necessary to achieve the limitations and requirements in this general permit. The RGP does not require the use of *specific* treatment. An operator is expected to select the treatment methods most appropriate for the pollutants present and other site-specific considerations. As aforementioned, Part 1.5 of the RGP requires that the discharge meet applicable water quality standards *and* all effluent limitations and requirements included in Part 2, Part 4, Part 5, and, if applicable, Part 6. A discharge in Activity Category IV is subject to numeric effluent limitations for parameters in any Contamination Type, if present (Part 2.1.1), an effluent flow limitation (Part 2.1.2), water quality-based effluent limitations and requirements (Part 2.2), state limitations and conditions for Massachusetts (Part 2.3), and the special conditions (Part 2.5), including conditions for the discharges of chemicals and additives and conditions for pipeline and tank dewatering. So long as the treatment methods selected ensure that the discharge will meet the numeric and non-numeric effluent limitations, special conditions and other requirements of the general permit, the treatment method described would be an acceptable approach to meet the requirements of this general permit. The operator is subject to the monitoring, record-keeping and reporting requirements (Part 4), the administrative requirements (Part 5), and the Standard Conditions (Part 6) aforementioned once discharges commence.

EPA has made minor revisions to the aforementioned parts for clarity and/or consistency.

Regarding whether a 30-day waiting period applies, refer to Response to Comment C.1, above for the changes EPA made to the NOI process in the final RGP. A *new discharge* must submit a NOI requesting coverage under the RGP at least seven (7) days in advance of when a discharge is expected to initiate. EPA will post NOIs for a minimum of seven (7) days, once EPA determines a NOI is complete. The effective date of coverage will be indicated in the authorization to discharge.

E. Comments submitted by Cathy Vakalopoulos, MassDEP

Comment E.1

Please clarify and/or correct the requirements for "Existing Data Substitution" in the RGP draft Permit and Appendix IV:

Can existing data be substituted for both new and existing discharges?

Part 4.1.5 of the draft Permit states that "the date of analysis for the existing data may not be greater than 12 months" prior to the date of a NOI but Part 1.I.D.4 of Appendix IV states "not more than 6 months". Please make these requirements consistent.

⁷ See footnote 1, above.

Can existing data be substituted for requirements other than a NOI?

Can other sources of existing data be allowed (such as data from other permit applications)?

Or, can other sources of existing data be considered on a case-by-case basis?

Response to Comment E.1

Part IV.A.1 of the fact sheet stated that “existing data substitution is allowed under limited circumstances for the purposes of preparing an NOI for new discharges.” Part IV.A.2 of the fact sheet stated that “existing data substitution is allowed for the purposes of preparing a NOI for existing discharges, provided such data meet the requirements specified in Part 4.1.5 of the 2016 RGP.” These allowances are reflected in Appendix IV, Part 1, under Section I.D.4 but not in Part 4.1.5 of the draft permit. Existing data substitution is allowed for both new and existing discharges. EPA has corrected the omission in Part 4.1.5 of the final permit for new discharges.

The date of analysis for the existing data may not be greater than six (6) months for new discharges, and may not be greater than twelve (12) months for existing discharges. The purpose of the shorter time period for new discharges as stated in the fact sheet is that this limitation “will ensure data used in EPA’s determination of coverage meets EPA performance and acceptance criteria (e.g., precision, accuracy, representativeness, comparability, completeness, and sensitivity).⁸ The limiting of instances of data substitution for new discharges will ensure EPA has the information necessary to make a determination of coverage and apply the appropriate effluent limitations to a discharge authorized under this general permit.”

Part 4.1.5 of the draft permit stated that existing data substitution is allowed “for the purposes of meeting the monitoring requirements included in this general permit once authorized to discharge” provided that the existing data meets the existing data substitution requirements and the monitoring requirements specified in the RGP. To meet the monitoring requirements in the RGP, existing data would generally need to be conducted concurrently with other permit-related sampling.

So long as the other requirements for existing data substitution are met, other sources of existing data may be appropriate for this general permit. An example of other existing data that may be allowable include data collected for other NPDES NOIs, other permit applications, or other permits. Therefore, EPA has revised Part 4.1.5 and Appendix IV, Part 1 of the final RGP to clarify the minimum requirements for existing data substitution and to allow use of other existing data on a case-by-case basis.

In summary, the revised requirements in Part 4.1.5 and Appendix IV, Part 1 of the RGP specifies the existing data substitution requirements as follows:

⁸ See EPA QA/G-5i. Also see EPA’s Data Quality Objectives Process (EPA/260R-02-008) and EPA’s Data Quality Assessment Process documents (e.g., EPA QA/G-8, EPA QA/G-9, etc.)

- a. Sampling and analysis must have been conducted pursuant to: Massachusetts Regulations 310 CMR 40.0000, the Massachusetts Contingency Plan (Chapter 21E); New Hampshire's Title 50 RSA 485-A: Water Pollution and Waste Disposal or Title 50 RSA 485-C: Groundwater Protection Act; the 2010 Remediation General Permit; or other existing data if allowed by EPA on a case-by-case basis;
- b. Sampling and analysis must meet the monitoring requirements specified in Part 2 and Parts 4.1.1 through 4.1.4, above, and for data submitted with a NOI, Part 4.2, below;
- c. For data submitted with a NOI, the date of analysis for the existing data may not be greater than twelve (12) months for existing discharges or six (6) months for new discharges;
- d. For data submitted to meet reporting requirements, the date of analysis for the existing data must approximately coincide with other sampling and analysis conducted for the general permit; and
- e. Existing data must meet the requirements specified in Part 2.5.2, above, and Part 4.6.2, below.

F. Fact Sheet and RGP Corrections

In reviewing all documents associated with the RGP, EPA identified errors in the fact sheet issued in support of the draft RGP as well as minor corrections needed in the draft RGP. EPA has made minor revisions to the final permit and/or its appendices as appropriate. Since the fact sheet document explains the basis for the requirements in the draft permit, it is a final document and is not changed based on comments received. EPA's response to comments serves to document these fact sheet errors and corrections. The errors identified are described below, and the correction for these errors are provided.

1. The cross-reference for the technology basis for the technology-based effluent limitation (TBEL) for total recoverable arsenic was inadvertently omitted. Each of the total recoverable metals TBELs, including those for arsenic, are based on the maximum monthly average BPT limitations for the Centralized Waste Treatment Point Source Category, Subpart D – Multiple Wastestreams in 40 CFR §437.42. EPA determined that the BPT limitations for centralized waste treatment facilities providing treatment for wastewater composed of metal-bearing wastes potentially mixed with oily and/or organic wastes are appropriate for discharges eligible for coverage under the RGP. See the technology basis for the antimony TBEL in the Fact Sheet for further explanation.
2. EPA identified a technical error in the basis for the water quality-based effluent limitation (WQBEL) for total recoverable cadmium in saltwater in New Hampshire which resulted in an error correction in the final RGP. As stated in the 2005 fact sheet, the draft WQBEL, 9.3 µg/L, is based on New Hampshire's saltwater chronic aquatic life criterion. EPA reviewed New Hampshire's Surface Water Quality Regulations at Env-Wq 1703.21 and the current proposed chronic aquatic life criterion for cadmium in saltwater is 7.9 µg/L. Although this water quality criterion (WQC) is correctly included by reference in Appendix VI for the calculation of the saltwater WQBEL in New Hampshire, this WQC was not referenced in Table 2 in Part 2.1.1 of the draft RGP. To correct this error, EPA added a footnote for the

cadmium WQBEL in saltwater in New Hampshire, which indicates that EPA anticipates changing the cadmium WQBEL in saltwater from 9.3 µg/L to 7.9 µg/L, once final.

3. A reference in support of the technology basis for the 1,4-dioxane effluent limitation is incorrectly footnoted in support of the technology basis for the benzene effluent limitation in footnote 112. Consequently, the technology basis for the benzene effluent limitation is incomplete and the corresponding reference was omitted. With the correction included in italics, the technology basis for the TBEL of 5.0 µg/L for benzene is therefore corrected to state:

“However, treatment consisting of air stripping, liquid phase carbon adsorption, dual phase extraction, bioslurping, air sparging,¹¹⁰ free product recovery and air stripping,¹¹¹ and *granular activated carbon* have been shown to be effective for reducing benzene concentrations below the proposed TBEL.¹¹²”

The correct reference for footnote 112 is:

Water Treatment Technology Feasibility Support Document for Chemical Contaminants for the Second Six-Year Review of National Primary Drinking Water Regulations. EPA Office of Water. EPA 815-B-09-007: October 2009.