

**REGION 1 NPDES PERMIT QUALITY
REVIEW
RHODE ISLAND**

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I. PQR BACKGROUND

National Pollutant Discharge Elimination System (NPDES) Permit Quality Reviews (PQRs) are an evaluation of a select set of NPDES permits to determine whether permits are developed in a manner consistent with applicable requirements established in the Clean Water Act (CWA) and NPDES regulations. Through this review mechanism, the U.S. Environmental Protection Agency (EPA) promotes national consistency, identifies successes in implementation of the NPDES program, and identifies opportunities for improvement in the development of NPDES permits.

EPA's review team, consisting of three EPA regional staff and one contractor, reviewed Rhode Island's NPDES permitting program, which included an on-site visit to the Rhode Island Department of Environmental Management (RIDEM) in Providence on April 24–25, 2013.

The Rhode Island PQR consisted of core permit reviews, national topics permit reviews and regional topic permit reviews. The core permit reviews focused on basic permit quality and included a review of the permit application, permit and fact sheet, as well as any correspondence, reports or documents that provide the basis for developing the permit conditions. The core permit review involved evaluating selected permits and supporting materials using basic NPDES program criteria. Reviewers completed the core review by examining selected permits and supporting documentation, assessing these materials using standard PQR tools and talking with permit writers regarding the permit development process. The core review focused on the *Central Tenets of the NPDES Permitting Program* to evaluate the Rhode Island NPDES program. In addition, discussions between EPA and state staff addressed a range of topics including program status, the permitting process, responsibilities, organization and staffing.

National topic area permit reviews are conducted to evaluate similar issues or permit types in all states. The national topics reviewed in the Rhode Island NPDES program included nutrients, Pesticide General Permits (PGPs), pretreatment and stormwater.

Regional topic area reviews target regionally specific permit types or particular aspects of permits. The regional topic areas selected by EPA Region 1 were combined sewer overflows (CSOs) and the Remediation General Permit (RGP). These reviews provide important information to Rhode Island, EPA Region 1, EPA Headquarters and the public on specific program areas.

A total of 17 permits were reviewed as part of the PQR. Ten permits were reviewed for the core review—of these, four were also reviewed specifically for their pretreatment provisions, and five were reviewed specifically for their nutrient-related provisions.

EPA Region 1 followed the NPDES Permit Quality Review Standard Operating Procedures (the SOP) (revised November 8, 2012) during the process of selecting permits for the Rhode Island PQR. Specifically, the region selected permits in accordance with the SOP to conduct core

permit reviews, national topic permit reviews and regional topic permit reviews. The national topic permit review areas, nutrients, pretreatment, stormwater and pesticides are topics of national significance, while the regional topic permit reviews are topics of regional or state interest. The region selected CSOs and the RGP as areas of regional topic permit reviews.

As a starting point, the region compiled a list of all of Rhode Island's individual NPDES permits using a January 2013 data pull from the Integrated Compliance Information System (ICIS). The inventory identified the permit number, facility name, facility type (publicly owned treatment works [POTW] or non-POTW), facility size (expressed as minor or major) and date of last issuance. As of April 25, 2013, there were 79 individual NPDES permits issued by RIDEM, of which 24 are major permits and 58 are minor permits. (These do not add up to 79 because there are also three incinerator permits listed in ICIS.) Since April 2013, and as of February 3, 2014, at least one major permit has been terminated, so that the number of major permits as of February 3, 2014 is 23, not 24. The permits in the inventory were grouped as major or minor, and each group was organized by issuance date, starting with the earliest issuance date and ending with the most recently issued permit.

In accordance with the SOP, an emphasis in permit selection was placed on recently issued permits. Within the previous two years, seven major permits and 19 minor permits were issued. Because all seven of their major permits were POTW permits, major permits issued in the previous three years were considered for core permit review selection. There were 11 major permits issued in those three years (eight POTW and three non-POTWs).

Also in accordance with the SOP, an emphasis was placed on major permits for the core review, targeting eight major permits and two minor permits, along with a random element in permit selection. From among the 11 major permits and the 19 minor permits, two were randomly selected. In the total universe of Rhode Island major permits, 19 or 79 percent are for POTWs and five or 21 percent are for non-POTW facilities, so the selection of major permits for the core permit review approximated that ratio, with six major POTW permits selected (70 percent) and two major non-POTWs selected (30 percent).

Before selecting the non-random permits for the core permit review, the region considered whether each recent permit, if selected, would overlap with permits being selected for the concurrent State Review Framework (SRF) or permits being selected to address any of the topic areas in the national topic permit review or regional topic permit review categories. Thus, one of the major permits for the core review was selected randomly and the other seven were selected to achieve the target POTW/non-POTW ratio, as well as to provide permits dealing with pretreatment and nutrient issues or that overlapped with permits being selected for the SRF. For minor permits, one of the permits was selected randomly and the other was chosen to overlap with permits being selected for the SRF and/or represent a discharge of particular interest to the PQR (nutrients, manufacturing, drinking water treatment, stormwater and petroleum storage).

The selection of the permits for nutrient national topic permit review was done in conjunction with the non-random selection of permits for the core permit review. A major and a minor permit with both nitrogen and phosphorus issues were chosen for the nutrient national topic permit review. The two non-POTW major permits that address nutrients were chosen for nutrient national topic permit review, and each of the core POTW permits were chosen for nutrient national topic permit review.

For the selection of permits for the pretreatment national topic reviews, the region compiled a list of all major POTW permits issued in the last three years that addressed pretreatment and randomly selected four permits for review.

For the pesticides and stormwater national topic permit reviews, RIDEM has issued a general permit for pesticides and three general permits for stormwater discharges: (1) Construction, (2) Industrial/Commercial and (3) Municipal Separate Storm Sewer System (MS4). These were all selected for review. For the RGP regional topic permit review the RIDEM RGP was selected for review. For the CSO regional topic permit review RIDEM has issued three CSO permits, and all were selected for review.

Based on these steps, the following permits were selected for review during the PQR.

LIST OF PERMITS FOR 2013 Rhode Island PQR

Review Focus	NPDES ID	Facility Name	Facility Type Indicator
Core	RI0100374	Town of South Kingstown	POTW – Major
Core	RI0100030	Town of East Greenwich	POTW – Major
Core	RI0100005	Bristol Town Hall	POTW – Major
Core	RI0100404	Quonset Development Corp.	POTW – Major
Core	RI0100056	Town of Warren	POTW – Major
Core	RI0100455	Burrillville Sewer Comm.	POTW – Major
Core	RI0000043	Bradford Printing & Finish	Non-POTW – Major
Core	RI0000191	Kenyon Industries, Inc.	Non-POTW – Major
Core	RI0100366	Town of Jamestown	Non-POTW – minor
Core	RI0020168	Medical Home of RI Inc.	Non- POTW – minor
Pretreatment	RI0100374	Town of South Kingston	POTW
Pretreatment	RI0100030	Town of East Greenwich	POTW
Pretreatment	RI0100005	Bristol Town Hall	POTW
Pretreatment	RI0100404	Quonset Development Corp.	POTW
Stormwater	RIR040000	Small MS4 General Permit (GP)	Stormwater
Stormwater	RIR05Alpha	Multi-Sector GP	Stormwater
Stormwater	RIR100000	Construction GP	Stormwater
Pesticide	RIG870000	Pesticides GP	Pesticides
Nutrient	RI0000191	Kenyon Industries, Inc. (N&P)	Non-POTW – Major
Nutrient	RI0020168	Medical Homes of RI, Inc.	Non-POTW – Major
Nutrient	RI0100455	Burrillville Sewer Comm.	POTW – Major

LIST OF PERMITS FOR 2013 Rhode Island PQR

Review Focus	NPDES ID	Facility Name	Facility Type Indicator
Nutrient	RI0100374	Town of South Kingstown	POTW – Major
Nutrient	RI0100030	Town of East Greenwich	POTW – Major
Remedial GP	RIG85Alpha	Remediation General Permit	GW, Non-POTW
CSOs	RI0100293	Newport City Hall	POTW – Major
CSOs	RI0100315	Fields Point-Narragansett Bay Comm.	POTW – Major
CSOs	RI0100072	Bucklin Point-Narragansett Bay Comm.	POTW – Major

The information in section II is based on state responses to PQR questions.

II. STATE PROGRAM BACKGROUND

A. Program Structure

RIDEM's Office of Water Resources (OWR) includes the Rhode Island Pollutant Discharge Elimination System (RIPDES) program. On September 17, 1984, the RIPDES program was granted authority to administer the NPDES program for Rhode Island, including the development and issuance of general and individual discharge permits. RIDEM's main office in Providence includes all of the OWR programs. OWR is divided into two main divisions: the Surface Water Protection Division and Ground Water and Wetlands Protection Division. The Surface Water Protection Division includes water quality criteria and standards, water quality assessments, shellfish area monitoring, Total Maximum Daily Loads (TMDLs), wastewater treatment facilities (WWTFs) and the RIPDES programs.

RIPDES program staff members are responsible for all facets of permit development, compliance monitoring and referral for formal enforcement to RIDEM's Office of Compliance and Inspection. The RIPDES program consists of 11 staff members, including the program supervisor, seven permit writers (also responsible for compliance tracking), one data entry person that is responsible for entering permit information into the ICIS, one administrative assistant and one pretreatment coordinator. In addition, the RIPDES program receives legal support from RIDEM Legal Services. The Rhode Island Department of Administration, Division of Information Technology also provides support for managing the ICIS program.

As of April 2013 seven permit writers have completed the EPA Permit Writers' training and one has completed the Water Quality Standards Academy course. All permit writers are given a training session by the principal engineer. Permit writers are encouraged to attend regional training (i.e., nutrient control seminars), and all permit writers receive ongoing mentoring from senior staff. RIPDES staff routinely work with staff from other OWR programs including staff supporting water quality criteria, TMDL, ground water, water quality certification and wetlands.

RIPDES also works with RIDEM Office of Legal Services and Office of Compliance and Inspection staff.

RIDEM has developed RIPDES permitting tools including permit development checklists, standardized Word permit and fact sheet/statement of basis documents, and a master Excel spreadsheet to streamline the development and issuance process. The Word templates address the various types of permits (i.e., individual major, individual minor and the various general permits) as well as fact sheets, statement of basis and development documents. All of these templates and forms are available on RIDEM's shared computer network and are updated as necessary (e.g., in response to changes in water quality criteria). Using these standard documents facilitates consistency in permit development.

RIDEM staff also directly enters permit status/facility information, monitoring and schedule requirements (required by permits and enforcement actions) and compliance status/enforcement data (e.g., inspection data and compliance actions) into EPA's ICIS database and compliance tracking system. OWR has applied for and received several EPA grants for IT enhancements that will increase productivity and data sharing within and outside of RIDEM.

RIPDES currently receives paper copies of Discharge Monitoring Reports (DMRs) and manually enters the data into ICIS; however, they are working toward using EPA's NetDMR system for electronic submission of these reports by permittees. RIDEM/OWR has also been awarded an EPA grant to develop the capability of receiving at least one type of RIPDES permit application electronically (i.e., to establish a Web site where permittees can enter information, either directly into ICIS or into another data system for subsequent upload to ICIS).

B. Universe and Permit Issuance

As of April 2013 RIDEM is responsible for administering permit coverage for approximately 675 permittees, including 24 major permits (19 POTWs and five non-POTWs), 55 minor individual permits and 24 non-stormwater general permits. RIDEM administers six general permit categories (Non-Contact Cooling Water [NCCW], RGP, PGP, Construction General Permit [CGP], Multi-Sector Industrial Stormwater General Permit [MSGP] and MS4 General Permit), covering 572 dischargers. Among the stormwater general permits, as of April 2013, 41 permittees were covered under the MS4 General Permit, 169 under the MSGP and 362 under the CGP.

Note that the SRF uses permit universe data that the state verified for the prior federal fiscal year (FY) and that EPA has subsequently frozen in the database of record. Because of this difference in the methods of determining the permit universe, there might be slight differences between the universe numbers reported in this section and the universe numbers reported in the SRF.

As of April 2013 RIDEM had 14 backlogged (i.e., > 180 days expired) individual and non-stormwater permits, meaning that the RIPDES program is 86.4 percent current. RIDEM continues its efforts to meet EPA's 10 percent backlog goal (i.e., 90 percent current). In addition,

RIDEM has consistently met or exceeded its priority permit commitment since FY 2006. In 2013 RIDEM anticipated meeting both the 10 percent backlog goal and its priority permit commitment by September 30, 2013. (In FY 2013 RIDEM met its priority permit commitment and the 10 percent backlog goal has been continued.)

RIDEM uses EPA permit application forms (but state Notice of Intent [NOI] forms) and sends out a reminder to submit a renewal application nine months before permit expiration. Permit writers review the applications and if complete the application is logged into ICIS and a completeness letter is sent out to the permittee.

Individual staff members are assigned responsibility to write permits and track compliance based on consideration of their experience and workload. In general, individuals are assigned both permit-writing and compliance-tracking responsibilities for a permit. RIDES has specific permit writers that are given the responsibility of being the subject matter experts for each general permit.

Permit writers develop draft permits using a checklist, standardized Word documents and master Excel spreadsheets to streamline the development and issuance process. Permit writers use the standardized spreadsheets and effluent data summaries from ICIS and any other available sources (i.e., facility-specific priority pollutant scans) to evaluate if a pollutant can be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard. If a given parameter has “reasonable potential,” water quality-based limits are assigned. RIDEM uses CORMIX to determine dilution factors for discharges into tidal water bodies and has also used effluent dye studies. Discharges into rivers (i.e., one-directional flow systems) are generally based on complete mixing.

Permit writers also review federal effluent limitation guidelines (ELGs) to identify any technology-based limits that apply to the facility. Finally, where necessary, permit writers also assign appropriate best professional judgment (BPJ) limits. Final limits are determined by setting the most stringent of these limits (water quality-based, technology-based and BPJ-based) as the final allowable discharge levels. As a last step, permit writers compare existing permit limits to the allowable discharge levels and evaluate the facility’s ability to meet the final permit effluent limits. If a facility will not be able to meet new discharge limits, RIDEM negotiates a consent agreement with the permittee, subsequent to permit issuance, that includes an enforceable compliance schedule. Specific details regarding permit development and the need for consent agreements are included in the fact sheet and permit development document, for major permits, or the statement of basis, for minor permits.

RIDEM ensures consistency and accuracy in permit development by providing appropriate training to permit writers through both formal training (i.e., EPA’s NPDES Permit Writers’ training) and informal training (i.e., mentoring by senior staff) and by requiring permit writers to use current templates to draft permits. Finally, to ensure consistency, either the RIDES program’s principal engineer or supervising engineer reviews all draft permits prior to signature.

C. State-Specific Challenges

The resources necessary to adequately implement an authorized NPDES program are of concern to RIDEM, particularly given the increase in the program's technical and legal complexity and the continually increasing universe of permittees. Several lawsuits have required EPA to expand the NPDES program beyond what was originally envisioned. Federal funding has not increased in response to the increase in state responsibilities or in a manner that keeps pace with increased operating costs.

Compliance with MS4 requirements has been hindered by the lack of sustainable funding sources for implementation. It is also difficult to address the backlog of MS4 TMDL Implementation Plans, which have not been reviewed, approved or tracked because of resource limitations. Tracking compliance with the 2004 general permit, providing municipal assistance and reissuing the general permit has consumed staff resources to date.

D. Current State Initiatives

Over the past couple of years and for the next several years, the NPDES program has spent considerable time on the following efforts:

- Establishing technology- and water quality-based numeric permit limits for nutrients to address water quality impairments.
- Providing compliance assistance and tracking compliance with MS4 permit requirements.
- Reducing the permit backlog toward 10 percent.
- Meeting the annual priority permit issuance commitment.
- Developing information technology enhancements (see above).
- Reissuing stormwater general permits.
- Reissuing non-stormwater general permits.
- Meeting annual inspection targets.
- Developing the Construction Environmental Results Program guidance and a model Construction Stormwater Pollution Prevention Plan (SWPPP).
- Participating in the development of an updated *Rhode Island Erosion and Sediment Control Handbook*.
- Developing and implementing the new *Rhode Island Stormwater Design and Installation Standards Manual*.
- Developing quarterly enforcement review procedures and streamlining internal processes and documentation.

III. CORE REVIEW FINDINGS

A. Basic Facility Information and Permit Application

1. Facility Information

Basic facility information is necessary to properly establish permit conditions. For example, NPDES permit application regulations require information regarding facility type, location, processes and other factors (Title 40 of the *Code of Federal Regulations* [CFR] Part 122.21). This information is essential for developing technically sound, complete, clear and enforceable permits. Similarly, fact sheets must include a description of the type of facility or activity subject to a draft permit.

The permits reviewed include appropriate issuance, expiration and effective dates, along with specific authorization to discharge language. The permits expire five years from their effective date (but do not specify a specific expiration date). The permits and fact sheets reviewed generally include a basic description of the facility and of the treatment process. The specific location of the outfalls is specified in the respective permit applications (latitude and longitude), but not in the permit or fact sheet. RIDEM staff indicated that this has been improved and reflected in more recent permits, based on RIDEM staff recommendations. For example, in a draft permit for Smithfield (RI010021) WWTF (not a core review permit, but provided by the state to inform EPA of RIDEM's most current practices) the fact sheet includes receiving water segment number information and a basic map of the location of the discharge. In a different permit (RI0000191), which discharges NCCW, it is recommended that the fact sheet identify the source of the cooling water, because this might be relevant to potentially applicable CWA section 316(b) requirements.

2. Permit Application Requirements

Federal regulations at 40 CFR 122.21 and 122.22 specify application requirements for permittees seeking NPDES permits. Although federal forms are available, authorized states are also permitted to use their own forms provided they include all information required by the federal regulations. This portion of the review assesses whether the state received appropriate, complete and timely application information and used it in permit development.

It appears that in some cases permit applications were not submitted 180 days before the existing permit's expiration date (e.g., Warren, RI0100056; Kenyon, RI0000191). State staff indicated that they consider applications "timely" provided they are submitted before the current permit expires. Also, for some permits, items such as flow diagrams, detection limits and the number of samples supporting permit application data points were missing (e.g., Warren, RI0100056).

B. Technology-Based Effluent Limitations

NPDES regulations at 40 CFR 125.3(a) require that permitting authorities develop technology-based requirements where applicable. Permits, fact sheets and other supporting documentation for POTWs and non-POTWs were reviewed to assess whether technology-based effluent limitations (TBELs) represent the minimum level of control that must be imposed in a permit.

1. TBELs for POTWs

POTWs must meet secondary or equivalent to secondary standards (including limits for biochemical oxygen demand, total suspended solids [TSS], pH and percent pollutant removal), and must contain numeric limits for all of these parameters (or authorized alternatives) in accordance with the secondary treatment regulations at 40 CFR Part 133. A total of six POTW permits were reviewed as part of the PQR.

The permits reviewed for POTWs included discharge limits for parameters addressed under the secondary treatment requirements and these limits were consistent with the secondary treatment requirements.

2. TBELs for Non-POTW Dischargers

Permits issued to non-POTWs must require compliance with a level of treatment performance equivalent to Best Available Technology Economically Achievable (BAT) or Best Conventional Pollutant Control Technology (BCT) for existing sources, and consistent with New Source Performance Standards for new sources. Where federal (ELGs) have been developed for a category of dischargers, the TBELs in a permit must be based on applying these guidelines. If ELGs are not available, a permit must include requirements at least as stringent as BAT/BCT developed on a case-by-case basis using BPJ in accordance with the criteria outlined at 40 CFR 125.3(d).

Four industrial permits were reviewed. Two of these were subject to ELGs (RI0000043 and RI0000191), yet no industry categorization discussion was identified in these two fact sheets or permits. One permit (RI0000043) allowed a doubling of the limit specified in the ELG. State staff indicated that this was done pursuant to an interpretation of 40 CFR 410.42(e) received from EPA Headquarters. The ELG does allow doubling under certain conditions. It is recommended that the fact sheet document this ELG allowance and that this facility meets those conditions. For one permit (RI0000191), limits appeared to be based on the Best Practicable Control Technology Current Available (BPT), not BAT. No calculations were identified, and some limits (maximum daily limit for sulfide and maximum daily and average monthly limits for TSS) did not appear to be consistent with the ELG.

C. Water Quality-Based Effluent Limitations

The NPDES regulations at 40 CFR 122.44(d) require permits to include any requirements in addition to or more stringent than technology-based requirements where necessary to achieve state water quality standards, including narrative criteria for water quality. To establish such water quality-based effluent limits (WQBELs), the permitting authority must evaluate the proposed discharge and determine whether technology-based requirements are sufficiently stringent, and whether any pollutants or pollutant parameters could cause or contribute to an excursion above any applicable water quality standard.

The PQR for RIDEM assessed the processes employed by permit writers and water quality modelers to implement these requirements. Specifically, the PQR reviewed permits, fact sheets and other documents in the administrative record to evaluate how permit writers and water quality modelers:

- Determined the appropriate water quality standards applicable to receiving waters.
- Evaluated and characterized the effluent and receiving water, including identifying pollutants of concern (POCs).
- Determined critical conditions.
- Incorporated information on ambient pollutant concentrations.
- Assessed any dilution considerations.
- Determined whether limits were necessary for POCs.
- Calculated such limits or other permit conditions.

For impaired waters, the PQR also assessed whether and how permit writers consulted and developed limits consistent with the assumptions of applicable EPA-approved TMDLs.

The fact sheets for the permits reviewed described the state's approach to developing WQBELs and generally indicated which limits were WQBELs. These fact sheets typically referenced a permit development document as supporting the WQBEL determination. The fact sheets for the permits reviewed indicate that to evaluate the need for water quality-based permit limits (i.e., reasonable potential to cause or contribute to the exceedance of in-stream criteria) permit limits are compared to DMR data and state user fee data. The fact sheets generally discussed the analysis results, including which parameters demonstrated reasonable potential, and the permits included limits for these parameters. RIDEM develops and generally includes permit development documentation in the permit file that includes spreadsheets used to array data for assessing reasonable potential, spreadsheets used for calculating permit limits, and a protocol used for assessing anti-degradation. (Note that these components were not identified in R10100374.) Fact sheets discuss where enterococci has been substituted for fecal coliform based on changes in state water quality standards.

The fact sheets for the permits reviewed did not include a discussion of the impairment status (i.e., 303(d) listing) of the relevant receiving water body. Similarly, several of the fact sheets did not discuss the TMDL status of the relevant receiving water body (fact sheets for RI 0001619, RI0000191 and RI0000043 did address TMDLs). RIDEM staff indicated that, based on recent changes, this information will be included going forward and identified the Smithfield permit (not a core review permit) as an example of how this will be addressed in the current permit template going forward. The fact sheet for the Smithfield permit discusses the impairment and TMDL status of the receiving water. (A new mapping tool also provides this information to the permit writers.) According to RIDEM other permits, in addition to Smithfield, have done this since the April 24, 2013, PQR review. In addition, in one permit (RI0100056) it was not clear which waterway was the receiving water (i.e., limit calculations were for Palmer River; the discharge appeared to be to Warren River).

D. Monitoring and Reporting

NPDES regulations at 40 CFR 122.41(j) require permittees to periodically evaluate compliance with the effluent limitations established in their permits and provide the results to the permitting authority. Monitoring and reporting conditions require the permittee to conduct routine or episodic self-monitoring of permitted discharges and where applicable, internal processes, and report the analytical results to the permitting authority with information necessary to evaluate discharge characteristics and compliance status.

Specifically, 40 CFR 122.44(i) requires NPDES permits to establish, at minimum, annual monitoring for all limited parameters sufficient to ensure compliance with permit limitations, including specific requirements for the types of information to be provided and the methods for collecting and analyzing such samples. In addition, 40 CFR 122.48 requires that permits specify the type, intervals and frequency of monitoring sufficient to yield data representative of the monitored activity. The regulations at 40 CFR 122.44(i) also require reporting monitoring results with a frequency dependent on the nature and effect of the discharge.

In general, monitoring requirements in the permits reviewed were found to meet applicable requirements. Monitoring frequencies appeared sufficient and locations were described in general terms (e.g., Outfall 001B). In addition, permits provided that all sampling and analysis must be performed in a manner consistent with EPA regulations at 40 CFR Part 136, and the permits include EPA methods and method detection limits (MDLs) for CWA section 307(a) toxic pollutants as well as MDLs for other toxic pollutants (mostly metals). The location of sampling points could be more clearly specified (e.g., include a footnote in the limits table). Eight of the permits reviewed required acute toxicity testing and three required chronic testing (one permit required both).

E. Standard and Special Conditions

Federal regulations at 40 CFR 122.41 require that all NPDES permits, including NPDES General Permits, contain an enumerated list of standard permit conditions. In addition, the regulations at 40 CFR 122.42 require that NPDES permits for certain discharger categories must contain additional standard conditions. Permitting authorities must include these conditions in NPDES permits and may not alter or omit any standard condition, unless such alteration or omission results in a requirement more stringent than required by the federal regulations.

In addition to standard permit conditions, permits can also contain additional requirements that are unique to a particular permittee or discharger. These case-specific requirements are generally referred to as *special conditions*. Special conditions might include requirements such as: additional monitoring or special studies such as a pollutant management plan or a mercury minimization plan; best management practices [40 CFR 122.44(k)]; or permit compliance schedules (see 40 CFR 122.47). Where a permit contains special conditions, such conditions must be consistent with applicable regulations.

The municipal permits reviewed include special conditions that address industrial pretreatment program (IPP) requirements, operation and maintenance of the sewer system and state sludge management requirements. Industrial permits include operation and maintenance provisions.

With regard to standard conditions, the permits reviewed include all of the NPDES standard conditions except for 40 CFR 122.41(l)(5), which addresses compliance schedules and requires that reports of compliance, noncompliance or progress with final or interim requirements be submitted within 14 days of the schedule date. RIDEM does not have authority to include compliance schedules in RIPDES permits. Rather, permit provisions must be appealed and compliance schedules can be included in an enforcement agreement. In addition, the RIPDES provision that appears to address 40 CFR 122.42(b) (i.e., introduction of new pollutants or substantial change in the volume or character of pollutants introduced to POTW requires notice to Director) is similar to the federal provision and might be sufficient, but it is unclear in some respects (e.g., it addresses facility expansions, production increases or process modifications that result in new, different or increased discharges of pollutants; requires notice to the Director if changes will not violate effluent limits; and requires a new permit application if they will).

F. Administrative Process

The administrative process includes documenting the basis of all permit decisions (40 CFR 124.5 and 40 CFR 124.6); coordinating EPA and state review of the draft (or proposed) permit (40 CFR 123.44); providing public notice (40 CFR 124.10); conducting hearings if appropriate (40 CFR 124.11 and 40 CFR 124.12); responding to public comments (40 CFR 124.17); and modifying a permit (if necessary) after issuance (40 CFR 124.5). EPA discussed each element of the administrative process with RIDEM and reviewed materials from the administrative process as they relate to the core permit review.

For all of the permits reviewed except one (RI0100374), the public notice was identified in the respective permit file. In general, the fact sheets for these permits indicated that no public comments addressing these permits had been received. With regard to public hearings, RIDEM staff indicated that they routinely hold a public hearing for all major permits. For all of the permits reviewed except one (RI0100404), the transcript for the public hearing was identified in the permit file.

G. Administrative Record

The administrative record is the foundation that supports the NPDES permit. If EPA issues the permit, 40 CFR 124.9 identifies the required content of the administrative record for a draft permit and 40 CFR 124.18 identifies the requirements for a final permit. Authorized state programs should have equivalent documentation. The record should contain the necessary documentation to justify permit conditions. At a minimum, the administrative record for a permit should contain the permit application and supporting data; draft permit; fact sheet or statement of basis; all items cited in the statement of basis or fact sheet including calculations used to derive the permit limitations; meeting reports; correspondence between the applicant and regulatory personnel; all other items supporting the file; final response to comments; and, for new sources where EPA issues the permit, any environmental assessment, environmental impact statement or finding of no significant impact.

Current regulations require that fact sheets include information regarding the type of facility or activity permitted; type and quantity of pollutants discharged; technical, statutory and regulatory basis for permit conditions; basis and calculations for effluent limits and conditions; reasons for application of certain specific limits; rationales for variances or alternatives; contact information; and procedures for issuing the final permit. Generally, the administrative record includes the permit application, the draft permit, any fact sheet or statement of basis, documents cited in the fact sheet or statement of basis and other documents contained in the supporting file for the permit.

1. Documentation of Effluent Limitations

Permit records for POTWs and industrial facilities should contain comprehensive documentation of the development of all effluent limitations. Technology-based effluent limits should include assessment of applicable standards, data used in developing effluent limitations and actual calculations used to develop effluent limitations. The procedures implemented for determining the need for water quality-based effluent limitations as well as the procedures explaining the basis for establishing, or for not establishing, water quality-based effluent limitations should be clear and straightforward. The permit writer should adequately document changes from the previous permit, ensure draft and final limitations match (unless the basis for a change is documented) and include all supporting documentation in the permit file.

The fact sheets for the permits reviewed include a significant amount of useful information, including information regarding the applicant, facility location, receiving water, proposed action, description of the discharge, permit and order limitations and conditions, permit basis, administrative process, contact information and attachments. The fact sheets also do a reasonably good job of describing the state's approach to developing WQBELs. In addition, the permit files typically included relevant supporting information, including prior permits, applications, the permit development document, correspondence, hearing records and so on.

With regard to TBELs, in three of the municipal permits (RI0100374, RI0100030 and RI0100455) limits from the prior permits were removed and the fact sheets did not specifically explain the basis for removal of the limits or expressly address anti-backsliding requirements. In one industrial permit (RI0020168), documentation of the basis and calculations for BPJ limits was not identified. Two industrial permits (RI 0001619 and RI 0020168) included limits carried forward from prior permits, but did not make the basis for these limits clear.

With regard to WQBELs, as noted above, the permit fact sheets reviewed did not discuss the impairment status (i.e., 303(d) listing) of the relevant receiving water body, and several permits did not discuss the TMDL status of the relevant receiving water body. (Fact sheets for RI 0001619, RI0000191 and and RI0000043 did address TMDLs.) The current model fact sheet (i.e., Smithfield) appears to address these issues. As noted, the permit files reviewed typically included a permit development document that includes spreadsheets and data that are the basis for the permit limits. In addition, citation to whole effluent toxicity methods should be 2002 methods (or a reference to 40 CFR 136). In another permit (RI0000043), the average monthly and maximum daily limits were the same for three pollutants and there was no explanation why. In addition, this fact sheet stated a basis for a total residual chlorine (TRC) limit but there was no limit in the permit. It is noteworthy that the model Smithfield permit and fact sheet addresses impairment status and TMDLs, and also includes additional discussion of the basis for limits, dilution (including example calculations), standard language addressing anti-backsliding requirements, an outfall map, calculation sheets for WQBELs, user fee and DMR data, and reasonable potential calculation sheets.

H. National Topic Areas

National topic areas are aspects of the NPDES permit program that warrant review based on the specific requirements applicable to the selected topic areas. These topic areas have been determined to be important on a national scale. National topic areas are reviewed for all state PQRs. The national topics areas are nutrients, pesticides, pretreatment and stormwater.

1. Nutrients

Background

For more than a decade, both nitrogen and phosphorus pollution has consistently ranked as one of the top causes of degradation of surface waters in the United States. Since 1998 EPA has

worked at reducing the levels and effects of nutrient pollution and, as a key part in this effort, has provided support to states to encourage the development, adoption and implementation of numeric nutrient criteria as part of their water quality standards (see EPA's *National Strategy for the Development of Regional Nutrient Criteria*). In a 2011 memo to EPA regions titled *Working in Partnerships with States to Address Nitrogen and Phosphorus Pollution through use of a Framework for State Nutrient Reductions*, the Agency announced a framework for managing nitrogen and phosphorus pollution that in part relies on using NPDES permits to reduce nutrient loading in targeted or priority watersheds.

Rhode Island has developed and is implementing programs to manage POTW and industrial discharges of both nitrogen and phosphorus to the state's surface waters, in accordance with state surface water quality standards. Rhode Island has a combination of numeric and narrative nutrient water quality standards for freshwaters, and narrative nutrient water quality standards for sea waters. Rhode Island's surface water quality standards are Rule 8 of the state's Water Quality Regulations, adopted July 2006 and amended December 2010 in accordance with chapter 42-35 pursuant to chapters 46-12 and 42-17.1 of the Rhode Island General Laws of 1956, as amended.

Rhode Island's specific criteria for nutrients in *freshwaters* are as follows:

- a. Average total phosphorus shall not exceed 0.025 mg/l in any lake, pond, kettlehole or reservoir, and average total phosphorus in tributaries at the point where they enter such bodies of water shall not cause exceedance of this phosphorus criteria, except as naturally occurs, unless the Director determines, on a site-specific basis, that a different value for phosphorus is necessary to prevent cultural eutrophication.
- b. None in such concentration that would impair any usages specifically assigned to said Class, or cause undesirable or nuisance aquatic species associated with cultural eutrophication, nor cause exceedance of the criterion of (a) above in a downstream lake, pond or reservoir. New discharges of wastes containing phosphates will not be permitted into or immediately upstream of lakes or ponds. Phosphates shall be removed from existing discharges to the extent that such removal is or may become technically and reasonably feasible.

Rhode Island's specific criteria for nutrients in *sea waters* are as follows:

- a. None in such concentration that would impair any usages specifically assigned to said Class, or cause undesirable or nuisance aquatic species associated with cultural eutrophication. Shall not exceed site-specific limits if deemed necessary by the Director to prevent or minimize accelerated or cultural eutrophication. Total phosphorus, nitrates and ammonia may be assigned site-specific permit limits based on reasonable Best Available Technologies. Where waters have low tidal flushing rates, applicable treatment to prevent or minimize accelerated or cultural eutrophication may be required for regulated nonpoint source activities.
- b. For either freshwater or marine water, more stringent site-specific limits are necessary to prevent or minimize accelerated or cultural eutrophication.

- c. Therefore, Rhode Island has only one numeric nutrient criterion (for phosphorus in a freshwater lake) and relies on narrative criteria in deriving water quality-based nutrient limits for other receiving waters.

Rhode Island water quality standards do not provide for the inclusion of compliance schedules within NPDES permits. Although Rhode Island’s regulations governing NPDES permit issuance contain a provision regarding compliance schedule, authorization for such schedules must be contained within a state’s water quality standards to be effective under EPA’s regulations. *In The Matter of Star-Kist Caribe, Inc.*, 3 E.A.D. 172, 175, 177 (1990). Accordingly, RIDEM does not include compliance schedules within its RIPDES permits, but rather, compliance schedules are typically contained in enforcement orders.

To assess how nutrients are addressed in the RIPDES permitting program, EPA reviewed five permits (three POTWs and two non-POTWs) as part the PQR national topic area nutrient permit review. There permits are as follows:

Nutrient	RI0000191	KENYON INDUSTRIES, INC. (N&P)	Non-POTW Major
Nutrient	RI0020168	MEDICAL HOMES OF RI INC.(N&P)	Non-POTW-minor
Nutrient	RI0100455	BURRILLVILLE SEWER COMM	POTW-Major
Nutrient	RI0100374	TOWN OF SOUTH KINGSTOWN (N)	POTW-Major
Nutrient	RI0100030	TOWN OF EAST GREENWICH (N)	POTW-Major

To assess how nutrients are addressed in the Rhode Island NPDES program, EPA Region 1 also reviewed RIDEM’s December 2004 *Evaluation of Nitrogen Targets and WWTP Load Reductions for the Providence and Seekonk Rivers* and RIDEM’s 2009 *Phosphorous Limits Guidance*.

Program Strengths

In EPA’s review of three municipal permits (Burrillville, South Kingston and East Greenwich) and two nonmunicipal permits (Kenyon Industries and Medical Homes), EPA finds that RIDEM generally does a very good job establishing water quality-based nutrient limits consistent with the permitting regulations and the surface water quality standards.

For example, the Burrillville permit contained a water quality-based phosphorus limit and thorough documentation and discussion regarding the basis for the phosphorous limit. The resulting effluent limit considered the applicable water quality standard, the Gold Book criteria and the eco-region criteria. Documentation included a calculation demonstrating that the proposed effluent limit achieves the numeric criteria of 0.25 micrograms per liter where the receiving water enters the downstream impoundment. With respect to nitrogen, RIDEM based the permit conditions for the Burrillville POTW on its design flow of 1.5 and RIDEM’s

December 2004 report entitled *Evaluation of Nitrogen Targets and WWTP Load Reductions for the Providence and Seekonk Rivers*. This December 2004 report developed water quality-based limits for Narragansett Bay. In accordance with this report, the Burrillville plant size is below the threshold for facilities requiring a nitrogen limit. However, the permit contains optimization requirements to ensure that the discharge load remains minimal.

Effluent data is well documented in the fact sheets of those permit reviews. Monitoring requirements are included and appear to be at appropriate frequencies and for appropriate parameters.

Critical Findings

Of the concerns EPA found in reviewing these permits, most related to the incompleteness of the documentation in the fact sheets.

For the five permits, there was no discussion in the fact sheets of the receiving water quality above or below the discharges, and this should be included. (According to RIDEM this has been done since the April 24, 2013, PQR review.)

Three of the permits (Kenyon Industries, Medical Homes and South Kingston) had no nutrient limits and no discussion of reasonable potential in the fact sheets. East Greenwich contained a water quality-based nitrogen limit but only a cursory discussion of the basis for the limit. For many of these permits, additional information might be available in permit development documents, but information pertaining to existing receiving water quality and reasonable potential analyses should be included in fact sheets.

In only one of the permits (Kenyon Industries) did EPA have a concern with the adequacy of the permit requirements relating to nutrients. In the Kenyon Industries permit it likely should have been found that the discharge of phosphorus had a reasonable potential to cause or contribute to an exceedance of nutrient water quality standards and the permit should have contained a phosphorus limit.

2. Pesticides

Background

On October 31, 2011, EPA issued a final NPDES *Pesticide General Permit (PGP) for Discharges from the Application of Pesticides*. This action was in response to a 2009 decision by the 6th U.S. Circuit Court of Appeals (Court) (*National Cotton Council of America v. EPA*, 553 F.3d 927) in which the Court vacated EPA's 2006 Final Rule on Aquatic Pesticides (71 *Federal Register* [FR] 68483, November 27, 2006) and found that point source discharges of biological and chemical pesticides that leave a residue in U.S. waters were pollutants under the CWA. The federal PGP applies where EPA is the permitting authority. All delegated state NPDES authorities, including Rhode Island, have issued state PGPs.

On January 7, 2009, the Court vacated EPA's 2006 NPDES Pesticides Rule under a plain language reading of the CWA. The Court held that the CWA unambiguously includes biological pesticides and chemical pesticides with residuals within its definition of *pollutant*. In response to this decision, on April 9, 2009, EPA requested a two-year stay of the mandate to provide the Agency time to develop general permits, to assist NPDES-authorized states to develop their NPDES permits, and to provide outreach and education to the regulated community. On June 8, 2009, the Court granted EPA the two-year stay of the mandate. On March 28, 2011, the Court granted EPA's request for an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into U.S. waters. The Court's decision extended the deadline for when permits would be required from April 9, 2011, to October 31, 2011.

As a result of the Court's decision to vacate the 2006 NPDES Pesticides Rule, NPDES permits are required for discharges of biological and chemical pesticides that leave a residue into waters of the United States. EPA proposed a draft PGP on June 4, 2010, to cover certain discharges resulting from pesticide applications. EPA regional offices and state NPDES authorities may issue additional general permits or individual permits if needed.

On May 22, 2012, RIDEM issued its own *Pesticide General Permit for Dischargers from the Application of Pesticides*. The general permit is effective from May 22, 2012, to June 21, 2017. Eligibility criteria are contained within Part 1.1 of the general permit.

For the 2013 Rhode Island PQR, EPA reviewed the Rhode Island PGP with a focus on verifying its consistency with NPDES program requirements.

Findings

Although issued beyond the court-ordered date of October 31, 2011, Rhode Island's PGP appears to meet the requirements of EPA's PGP. Rhode Island has an existing licensing program through its Division of Agriculture that already authorized discharges for applications for weeds and algae and mosquito control. Rhode Island's PGP automatically covered these applications. New use patterns that were authorized were those for forest canopy control, animal pest control in cranberry bogs and other flying insects. It is believed that the state has the staff and the knowledge to administer this new permit effectively. In addition, the state has conducted initial outreach regarding the new permit for commercial applicators and held informational meetings with other interested parties.

The Rhode Island PGP did not establish any thresholds (above which a specific application or NOI was required). They have about 50–60 permits for applications each year and might get a handful more from the newly authorized applications to cranberry bogs, forest canopy and for other flying insects. They had no problems in 2012 regarding permit coverage for any applicators.

In addition to prohibiting applications to Tier 3 waters, similar to EPA's PGP (with the exception for those applications which restore/maintain water quality or protect public health or the

environment) the Rhode Island PGP also prohibits applications to Tier 2.5 waters, which are classified as Special Resource Protection Waters.

3. Pretreatment

The general pretreatment regulations (40 CFR Part 403) establish responsibilities of federal, state and local government, as well as industry and the public to implement pretreatment standards to control pollutants from industrial users which might cause pass-through or interfere with POTW treatment processes or could contaminate sewage sludge.

Background

The goal of this pretreatment program review was to assess the status of the pretreatment program in Rhode Island, as well as assess specific language in POTW NPDES permits. Rhode Island is authorized to implement the pretreatment NPDES program components. With respect to NPDES permits, focus was placed on the following regulatory requirements for pretreatment activities and pretreatment programs:

- 40 CFR 122.42(b) (POTW requirements to notify Director of new pollutants or change in discharge).
- 40 CFR 122.44(j) (Pretreatment Programs for POTWs).
- 40 CFR 403.8 (Pretreatment Program Requirements: Development and Implementation by POTW).
- 40 CFR 403.9 (POTW Pretreatment Program and/or Authorization to Revise Pretreatment Standards: Submission for Approval).
- 40 CFR 403.12(i) (Annual POTW Reports).
- 40 CFR 403.18 (Modification of POTW Pretreatment Program).

The PQR also summarizes program oversight (number of audits and inspections conducted; number of significant industrial users [SIUs] in approved pretreatment programs; and number of categorical industrial users [CIUs] discharging to municipalities that do not have approved pretreatment programs) and the status of implementing changes to the general pretreatment regulations at 40 CFR Part 403 adopted on October 14, 2005 (known as the streamlining rule).

The pretreatment universe in Rhode Island includes 15 approved local IPPs, which regulate 190 SIUs and 114 CIUs. In addition, there are four nonapproved pretreatment programs and one SIU that reports directly to Rhode Island. Section I describes the POTW permits selected for this pretreatment review and the selection process for POTW permits for this national topic area permit review.

RIDEM maintains a master permit pretreatment section (permit language) that contains standard wording for all new and reissued RIPDES permits for POTWs with approved IPPs.

Program Strengths

Pretreatment Compliance Inspections (PCIs) and Audits – RIDEM has consistently and diligently met its EPA work plan commitments for conducting PCIs and pretreatment audits. Rhode Island has 15 approved IPPs and a quarterly PCI or audit has been conducted without exception over the past 15 years. All 15 IPPs have had a PCI or audit performed over the last four calendar years, and for the 2011 and 2012 calendar years, eight annual events were performed (three PCIs and five audits). This far exceeds the compliance monitoring strategy inspection goals.

Mercury Dental Amalgam Program – RIDEM’s OWR issued a policy memorandum letter to all IPPs on June 24, 2008, which mandates compliance with the *Rhode Island Rules and Regulations Governing the Administration and Enforcement of the Rhode Island Mercury Education and Reduction Act*. This act requires the mandatory installation, use and maintenance of Amalgam Separator Units for all dental offices and facilities throughout the state. RIDEM’s Office of Customer and Technical Assistance receives and tracks information from dental facilities regarding the use and maintenance of Dental Amalgam Separator Units.

Pharmaceutical Take-Back Program – Each IPP within Rhode Island has instituted its own local pharmaceutical take-back program in conjunction with the combined efforts of RIDEM oversight and participation by local city and town officials. This includes the designation of special days for each community to take back pharmaceuticals in the presence of law enforcement officers and to subsequently implement the appropriate disposal measures as required by the applicable POTW and sewer use ordinance (SUO) requirements.

Fats, Oils and Grease (FOG) Program – Each IPP within Rhode Island has established both local discharge limitations and grease trap requirements in its SUO regulations. Additional (more stringent) FOG-related requirements have also been developed and implemented on a case-by-case basis as necessary by the individual pretreatment programs, some of which (e.g., the NBC and Warwick IPPs) have been the subject of regional noteworthiness and presentation at the annual EPA Region I Pretreatment Conference.

Regional EPA Program Excellence Awards – Narragansett Bay Commission, Warwick and West Warwick IPP’s have each won regional pretreatment awards over the last several years. In addition, a number of Rhode Island POTWs have received related awards in the areas of WWTF operations and compliance performance.

Critical Findings

Fact sheets do not provide a date for when the pretreatment program was approved.

4. Stormwater

Background

The CWA requires stormwater discharges from certain MS4s, industrial activities and construction sites to be authorized by an NPDES permit. Generally, EPA- and NPDES-authorized states issue individual permits for medium and large MS4s and general permits for smaller MS4s, industrial activities and construction activities. RIDEM is authorized to issue stormwater permits under its NPDES program, RIPDES.

RIDEM has three effective general permits associated with the regulation of stormwater discharges, one each for small MS4s, industrial activities and construction activities. At the time of the April 2013 PQR review, RIDEM was reissuing its general permit for industrial activities and had published a draft in December 2012. Therefore, the following permits effective in April 2013 for small MS4s and construction activities, and the draft industrial activity permit were reviewed as part of the Rhode Island 2013 PQR:

- General Permit – Rhode Island Pollutant Discharge Elimination System – Storm Water Discharge from Small Municipal Separate Storm Sewer Systems and from Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s ([RIR040000, December 19, 2003](#)).
- Multi-Sector General Permit – Rhode Island Pollutant Discharge Elimination System – Storm Water Discharge Associated with Industrial Activity (excluding Construction Activity) (RIR500000, December 12, 2012, Draft).
- General Permit – Rhode Island Pollutant Discharge Elimination System – Storm Water Discharge Associated with Construction Activity ([September 26, 2008](#)).

Findings are presented separately for the municipal, industrial and construction stormwater permits.

Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s)

Background

The Rhode Island Small MS4 General Permit that was reviewed was issued in December 19, 2003. The permit expired on December 19, 2008. EPA and RIDEM have identified reissuance of this permit as a priority.

The fact sheet for this permit was not reviewed. Consistent with 40 CFR 124.8, fact sheets are required for all general permits and must contain the information detailed in that section.

Findings – Program Strengths

The permit is more prescriptive than the corresponding regulations at 40 CFR 122.34 and expands the regulated universe of MS4s beyond the scope to the federal program. Expanded universe includes municipalities in “densely populated areas” and Department of Transportation MS4s in “densely populated areas or serves a divided highway.”

Findings – Critical Findings

The following seven items should be clarified in the reissued permit:

1. Public notice of NOIs – The permit states that RIDEM will review the NOI and the Stormwater Management Program Plan (SWMPP), but does not appear to provide an opportunity for the public to review the NOIs. The public should have an opportunity to review NOIs.
2. Authorization dates and effective date – The effective date of the permit is not clear. The effective date is indicated on RIDEM’s Web site, but not on the printed version of the permit. The effective date should be clearly stated in the body of the permit. The permit provides for authorization to discharge “...on the effective date of the permit if a completed NOI and a copy of the SWMPP have been submitted to RIDEM by this date...” The NOI is due 90 days from the effective date of the permit. It appears that coverage is being granted retroactively and it is not clear whether this is RIDEM’s intent. RIDEM should consider a more formal acknowledgement of permit coverage rather than granting coverage because the applicant was not notified differently by RIDEM.
3. Continuation of expired permit – RIDEM should consider moving this language from the standard conditions section to the body of the permit. The permit indicates that authorization does not automatically continue unless the permittee submits a NOI to RIDEM 180 days before permit expiration. If so, RIDEM should consider providing reminders of this requirement. If no reminders are sent, consider making this requirement clearly evident to the permittee.
4. Authorized industrial facilities – RIDEM should consider clarifying which industrial facilities are authorized by this permit. The permit identifies numerous industrial facilities that are exempt from coverage. RIDEM should consider including a listing of authorized industrial facilities. As a reminder, stormwater discharges associated with industrial activity are not subject to the maximum extent practicable standard. The permit requirements for these discharges must reflect this.
5. CWA section 402(p)(3)(B) details permit requirements for discharges from storm sewers. Paragraph (iii) of this section states “Permits...shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.” Part II.C.4 of the permit applies to discharges to water quality-impaired waters. Discharges to impaired waters will typically need efforts greater than “maximum extent practicable” to control pollutants. Therefore, references to maximum extent practicable to address water quality-based effluent limitations should be removed.
6. The permit should contain more prescriptive provisions for addressing discharges to impaired waters with approved TMDLs. Permits issued to waters with an approved TMDL must be consistent with the assumptions and requirements of any available waste load allocation for the discharge [40 CFR 122.44(d)(1)(vii)(B)]. The reissued permit should address this.
7. The reissued permit should include documentation that supports using alternative programs to meet permit requirements. (This is currently an action item.)

Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity

Background

For this portion of the Rhode Island PQR, EPA reviewed the state's draft *Multi-Sector General Permit – RIPDES – Storm Water Discharge Associated with Industrial Activity (excluding Construction Activity)* (RIR500000, December 12, 2012). The substantive provisions of the permit are nearly identical to EPA's 2008 MSGP, and it is available to discharges associated with industrial activities defined at 40 CFR 122.26(b)(14)(i)-(ix) with one exception. The permit specifically makes ineligible discharges from facilities engaged in marine wrecking ships for scrap, marine salvaging and ship dismantling activities identified in Standard Industrial Classification (SIC) 4499. A limited number of permit revisions are required or recommended before final issuance or upon reissuance as described herein.

Since the Rhode Island PQR visit and permit review in April 2013, RIDEM considered these EPA comments and issued a final *Multi-Sector General Permit – RIPDES – Storm Water Discharge Associated with Industrial Activity (excluding Construction Activity)* signed on July 11, 2013, effective April 15, 2013, and expiring August 14, 2018. Consistent with national PQR policy, the original findings are presented below.

Findings – Program Strengths

There are many positive or progressive aspects of the permit, including the following:

- **Eligibility:** As currently drafted, the permit covers a larger universe of facilities than EPA's MSGP. Whereas EPA's permit limits coverage to only those facilities with stormwater discharges associated with its primary or co-located industrial activity, RIDEM's draft does not distinguish between facilities that are primarily engaged in a regulated industrial activity and those that might engage in such an activity in only a limited manner.
- **Benchmark Monitoring:** The permit requires benchmark monitoring parameters (metals) beyond those required in EPA's MSGP for Ship and Boat Building and Repair Yards (Sector R).
- **Monitoring for POCs:** The permit requires automatic annual monitoring for POCs for discharges to impaired waters with a TMDL, as opposed to upon notification of the permitting authority as provided in EPA's MSGP.
- **Where a facility is planning physical alterations, operational changes or additions that could significantly change the nature or increase the quantity of pollutants discharged, the operator must obtain authorization as a new discharge (Part I.B.3.m).** Through its corrective action provisions, EPA's MSGP allows modifications to control measures as soon as possible under these circumstances.
- **Operators must submit SWPPP changes to RIDEM within 30 days of any significant amendments.**

- The permit requires the inclusion of additional information in the SWPPP:
 - Overall estimate of runoff coefficient for the facility (but does not specify a methodology).
 - Areal extent and a description of wetlands that might receive a discharge from the facility.
 - Method of on-site storage or disposal of pollutants.
 - Direction of flow and estimated type of pollutants for areas with a reasonable potential for containing significant amounts of pollutants.
- The permit requires that the operator must provide, upon written request, a copy of its SWPPP to the public.

Findings – Observations and Critical Findings

Allowable Non-Stormwater Discharges

- The permit's list of allowable non-stormwater discharges is less inclusive of some discharges allowed under EPA's MSGP, but more inclusive of other flow, including uncontaminated utility vault dewatering, dechlorinated water line testing water and hydrostatic test water that does not contain any treatment chemicals and is not contaminated with process chemicals. However, EPA believes the list is consistent with the categories of flows identified at 40 CFR 122.26(d)(2)(iv)(B)(1), providing additional clarity by identifying typical flows by name.

Limitations on Coverage

- As currently drafted, the permit does not extend eligibility to—at RIDEM's discretion—discharges with previous or existing coverage under an individual permit or alternative general permit.

Granting Authorization

- Although the permit provides waiting periods for granting authorization for new discharges and existing discharges that have not been previously permitted, the permit does not provide any waiting period between NOI submission and authorization for existing discharges presently authorized under the 2006 permit. Although such lack of a waiting period is permissible under 40 CFR 122.28(b)(2)(iv), this automatic authorization seems to greatly limit RIDEM's opportunity to prevent an inadvertent authorization for a particular facility for a given reason. Although EPA appreciates the need for the timely processing of NOIs, even a modest waiting period would reduce the potential necessity of revoking authorizations where necessary.
- Although not required by NPDES regulation, the permit does not provide for any public review of submitted NOIs before authorization.

Conditional Exclusion for No Exposure

- As provided at 40 CFR 122.26(g)(1)(iii), the permit does not specify the effective term (e.g., five years) or a renewal requirement for the no exposure exclusion and resubmitting the certification consistent with its [No Exposure Certification form](#) and [RIPDES Rule 31\(h\)\(1\)](#).

General Permit for Stormwater Discharges from Construction Activity**Background**

The general permit, issued on September 26, 2008, was reviewed during the April 2013 PQR review. This permit expired on September 26, 2013. This permit was issued before the promulgation of the Construction and Development Effluent Limitation Guidelines (the C&D ELGs). The effective date of the regulations was February 1, 2010. When the permit is reissued, it must include the ELGs for the construction and development point source category (see 40 CFR Part 450).

Since the April 2013 PQR review, RIDEM issued a revised CGP, which became effective September 26, 2013. This revised CGP incorporates the required narrative standards contained in the C&D ELGs either directly as specific permit requirements or by reference to relevant design.

Findings – Program Strengths

The permit addresses post-construction runoff. This is more stringent than current EPA requirements and consistent with anticipated future stormwater requirements. However, the permit is unclear regarding who is responsible for managing post-construction best management practices. EPA supports the continued inclusion of this type of provision, but encourages RIDEM to include greater specificity in its reissued permit.

Findings – Observations and Critical Findings

The 2008 permit does not include any final ELGs for the construction and development point source category (see 40 CFR Part 450) that are now in effect. This needed to be addressed upon reissuance. Since the April 2013 PQR review, RIDEM has issued a new CGP containing the C&D ELGs.

The permit references different state permits and local programs including the qualifying local program, Freshwater Wetlands Permit, Coastal Resources Management Council Permit and RIDEM water quality certification. It is unclear from the permit how each of these programs and permits relates to the CGP. Such a discussion should be included in an accompanying fact sheet or as footnotes within the body of the permit.

The NOI instructions indicate who must submit the form. It is unclear by reading the permit alone who should submit the form. This requirement should be stated in the permit.

Part I.C.1.a of the permit indicates that an existing project must submit an NOI for continued coverage within 30 days of the effective date. The standard conditions, Part V.C., indicate that an NOI must be submitted 180 days before the expiration of the permit. The reissued permit should clarify RIDEM's expectations. As currently written, it appears that a project must submit two NOIs. If this is not RIDEM's intention, this should be clarified.

RIDEM should provide an opportunity for the public to review submitted NOIs. RIDEM should also require that the SWPPP be available to the public.

RIDEM should consider including dewatering as an allowable non-stormwater discharge. (See Part 2.1.3.4 of EPA's 2012 CGP for suggested language.)

The reissued permit should contain more specific provisions to address water quality. (See Part 3.0 of EPA's 2012 CGP for suggested language.)

IV. REGIONAL TOPIC AREA FINDINGS

A. Remediation General Permit

Background

RIDEM issued its Rhode Island Remediation General Permit (RIRGP) on August 26, 2008, to regulate certain recurring site remediation-related discharges. The permit authorizes point source discharges related primarily to the discharge of ground water and certain surface water from petroleum-related site remediation activities which included gasoline sites, fuel oils, mixed-contaminant petroleum sites and non-petroleum site remediation activities such as volatile organic compound sites and other sites containing contaminants such as heavy metals. The RIRGP became effective on October 1, 2008, and will expire at midnight five years from the effective date.

For the 2013 Rhode Island PQR, EPA reviewed the RIRGP with focus on verifying its consistency with the NPDES program requirements and with the RGP issued by Region 1 EPA to cover similar remediation-related discharges in Massachusetts and New Hampshire (the EPARGP).

Findings – Positive Aspects

The RIRGP presents a well-organized process for the application, authorization and coverage under the RIRGP. The document includes the final authorization cover letter addressed to the owner or operator of the site and a separate permit section addressing the pollutants to be monitored, as determined by the permit writer. The RIRGP includes all the necessary permit conditions established in a format similar to that used in EPA NPDES individual permits, plus the list of pollutants the permittee is required to report. Therefore, it is believed that the RIRGP is generally consistent with the EPARGP requirements and will provide for meeting Rhode Island's water quality standards.

The CWA requires that all discharges, at a minimum, must meet effluent limitations based on the technology-based treatment requirements for discharges to control pollutants in their discharge. CWA section 301 (b)(1)(A) requires the application of BPT and section 301(b)(2) requires the application of BCT for conventional pollutants and BAT for nonconventional and toxic pollutants. Thus, for all discharges covered by the RIRGP, these technology-based requirements apply and have been considered in the RGP permit limits.

EPA is continually developing ELGs for discharges associated with industrial activities. Although many ELGs have been developed, no ELGs have been developed which cover the types of discharges authorized by the RGP. Therefore, as provided in CWA section 402(a)(1), RIDEM established technology-based effluent limitations in its RGP using BPJ to meet the requirements for BPT, BCT and BAT.

Under section 301(b)(1)(C) of the CWA discharges are also subject to effluent limitations based on water quality standards. Section 303(c) of the CWA requires every state to develop water quality standards applicable to all water bodies or segments of water bodies that lie within the state. Waters within the state are classified according to use, and EPA adopts and approves numerical or narrative standards. Along with the BPJ-based effluent limitations described above, water quality standards were also used to establish water quality-based effluent limitations in the RIRGP.

Findings – Observations and Critical Findings

During the development of the RIRGP, RIDEM adopted most of the EPARGP requirements into its permit. The only differences observed are the rationale for setting metal limits for low-dilution waters and the monitoring frequencies. RIDEM is of the opinion that for the majority of the situations the treatment systems are expected to remove contaminants to very low levels and should be capable of achieving the water quality standards for zero dilution; however, for low levels of metals in the ground water it would be a secondary concern, and reducing them to zero would require a significant additional expense and complexity of the treatment system without being necessary to protect water quality. Therefore, unlike the EPARGP, the 2005 RGP sets limits based on a 0–5 dilution range concentration. The RIRGP factors dilution into effluent limits starting at a dilution of 5.

Another difference between the EPARGP and the RIRGP is that RIDEM modified some of the permit concentrations established in the EPARGP Appendix III list, making them in some cases more or less strict than those in the EPARGP. In addition, the RIRGP requires the permittee to report results of both the average monthly and maximum daily samples taken twice a month using analytical methods approved under 40 CFR Part 136. Permittees must report data using DMRs on a quarterly basis via the Internet, unlike the EPARGP that requires the permittee to maintain the results on-site and to have them available for inspection by EPA or the state.

The RIRGP does not include a requirement for the permittee to develop and implement a Best Management Practices Plan (BMPP). The EPARGP requires a BMPP with provisions to meet a number of objectives such as the following:

1. To minimize the potential for permit violations.
2. To protect the designated water uses of surrounding surface water bodies.
3. To mitigate pollution from material storage areas, in-plant transfers of hazardous and toxic materials, process and material handling areas, loading and unloading operations, and accidental spillage.
4. To properly operate and maintain the treatment systems where they are used to meet the limitation.
5. To provide site security.
6. To control and monitor discharges so that they do not exceed design flow.
7. To train employees.
8. To prevent erosion, stream scouring or sedimentation caused directly or indirectly by the discharge.

EPA recommends that RIDEM consider including a similar BMPP requirement in the next permit reissuance.

Otherwise, EPA believes that the current RIRGP provides a well-balanced set of permit conditions and water quality protection for the state waters.

B. Combined Sewer Overflows (CSOs)

Background

CSOs present environmental and health problems because they discharge untreated or undertreated wastewater that contain microbial pathogens, nutrients, suspended solids, toxic chemicals, trash and other pollutants into waterways. CSO discharges are subject to CWA section 402(q), which requires that any permit, enforcement order or decree for discharges from combined sewer systems conform to EPA's 1994 CSO Control Policy [59 FR 18688, April 19, 1994 and 33 *United States Code* 1342(q)].

The CSO Control Policy identifies permit requirements for developing and implementing CSO controls using a two-phase approach. Initial Phase I permits must include requirements for implementing nine minimum controls and developing a Long-Term CSO Control Plan (LTCP). Phase II permits must contain requirements LTCP implementation.

The following are the major elements of Phase I and II permits to implement the 1994 CSO Control Policy and ensure protection of water quality.

1. Phase I Permits – Requirements to implement nine minimum controls and develop a LTCP:
 - a. Immediately implement the nine minimum controls.

- b. Develop and submit a report documenting the implementation of the nine minimum controls.
 - c. Comply with applicable water quality standards, expressed in the form of a narrative limitation.
 - d. Develop and submit, based on a schedule in an appropriate enforceable mechanism, a LTCP.
2. Phase II Permits – Requirements for Implementation of a LTCP:
- a. Requirements to implement the technology-based controls, including the nine minimum controls determined on a BPJ basis.
 - b. Narrative requirements which ensure that the selected CSO controls are implemented, operated and maintained as described in the LTCP.
 - c. WQBELs under 40 CFR 122.44(d)(1) and 122.44(k), requiring compliance with, no later than the date allowed under the state water quality standards, the numeric performance standards for the selected CSO controls. This can be expressed as a maximum number of overflow events per year or a minimum percentage capture of combined sewage by volume for treatment.
 - d. A requirement to implement, with an established schedule, the approved post-construction water quality assessment program including requirements to monitor and collect sufficient information to demonstrate compliance with state water quality standards and protection of designated uses, as well as to determine the effectiveness of CSO controls.
 - e. A requirement to reassess overflows to sensitive areas.
 - f. Conditions establishing requirements for maximizing the treatment of wet weather flows at the POTW facility; and
 - g. A reopener clause authorizing the permitting authority to reopen and modify the permit upon determination that the CSO controls fail to meet state water quality standards or protect designated uses.

As part of the 2013 PQR, EPA reviewed three permits with special focus on the CSO requirements and whether the permits met the conditions of EPA's 1994 CSO Control Policy. These three are: (1) City of Newport (RI0100293); (2) Narragansett Bay Commission – Bucklin Point Facility (RI0100072); and (3) Narragansett Bay Commission – Fields Point Facility (RI0100315).

Findings – Positive Aspects

Rhode Island has a CSO permit universe of three facilities. The Narragansett Bay Commission operates two facilities subject to CSO permit language. RIDEM is implementing the 1994 CSO Control Policy primarily through a combination of permit requirements and enforcement actions.

Each of the permits reviewed include the nine minimum controls as identified in the 1994 CSO Control Policy.

Findings – Observations and Critical Findings

Despite each permit requiring the nine minimum controls as identified in the 1994 CSO Control Policy, the permits do not adequately address meeting the water quality requirements of the NPDES program. The permits do not specifically state that discharges from CSOs must not cause violations of state water quality standards. In addition, RIDEM's permitting of the wet-weather bypass at the Narragansett Bay Commission's Fields Point treatment facility remains an unresolved issue between EPA and the state. In its permitting process, RIDEM has treated the discharge as a CSO discharge. However, EPA has determined based on available information provided in the draft permit that the discharge is not a CSO but a CSO-related bypass at the treatment plant. Consequently, the permitting of the discharge is inconsistent with the requirements at 40 CFR 122.41(m).

V. ACTION ITEMS

This section provides a summary of the main review findings and provides proposed action items to improve Rhode Island's NPDES permit programs. This list of proposed action items will serve as the basis for ongoing discussions between Region 1 and RIDEM as well as between Region 1 and EPA Headquarters. These discussions should focus on eliminating program deficiencies to improve performance by enabling high-quality, defensible permits issued in a timely fashion.

The proposed action items are divided into three categories to identify the priority that should be placed on each item and facilitate discussions between regions and states.

- **Critical Findings** (Category One) - Most Significant: Proposed action items will address a current deficiency or noncompliance with respect to a federal regulation.
- **Recommended Actions** (Category Two) - Recommended: Proposed action items will address a current deficiency with respect to EPA guidance or policy.
- **Suggested Practices** (Category Three) - Suggested: Proposed action items are listed as recommendations to increase the effectiveness of the state or region NPDES permit program.

The critical findings and recommended actions proposed should be used to augment the existing list of follow-up actions currently established as an indicator performance measure and tracked under EPA's Strategic Plan Water Quality Goals or may serve as a roadmap for modifications to the region's program management.

A. Basic Facility Information and Permit Application

The facility information in the fact sheet and permit file generally appeared to be sufficient. Some permit applications were not submitted 180 days before expiration, and, for at least one

permit, a few items were not found in the permit application. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- Ensure that permit applications are complete. (Category 1).
- Ensure that permit applications are submitted at least 180 days before the permit expiration. (Category 1).
- Specify the location of discharge outfalls in the fact sheet. The Smithfield fact sheet (i.e., the current model permit/fact sheet) appears to include this information. (Category 3).
- When a discharge of NCCW is subject to the permit, specify the source of the cooling water in the fact sheet to determine potentially applicable CWA section 316(b) requirements. (Category 3).

B. Technology-Based Effluent Limitations

The TBELs for POTW permits reviewed included discharge limits for parameters addressed under the secondary treatment requirements, and these limits were consistent with the secondary treatment requirements. The industrial permit fact sheets did not consistently include an industry categorization discussion. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- Include an industry categorization discussion in industrial permit fact sheets to indicate whether ELGs apply. (Category 2).
- Where technology-based limits are imposed and are not based on ELGs indicate that such limits are based on BPJ and document the basis. (Category 2).

C. Water Quality-Based Effluent Limitations

The fact sheets for the permits reviewed did not include a discussion of the impairment or TMDL status of the relevant receiving water body. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- Include a discussion of the 303(d) and TMDL status of the receiving water in the fact sheets for all facilities. The Smithfield fact sheet appears to include this information. (Category 2).
- In addition to identifying the receiving water in the fact sheet, describe the designated uses beyond just including the water body classification. The Smithfield fact sheet appears to include this information. (Category 3).

D. Monitoring and Reporting

The monitoring and reporting provisions in the permits reviewed appeared to be sufficient. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- Identify the location of sampling points clearly, perhaps in a footnote in the limits table. (Category 3).

E. Standard and Special Conditions

The special and standard conditions reviewed appeared to be consistent with applicable requirements. RIDEM does not have authority to include compliance schedules in NPDES permits. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- No action items were identified for this subject area.

F. Administrative Process

Public notice, comment and hearing documentation appeared to be consistent with applicable requirements. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- No action items were identified for this subject area.

G. Documentation

The fact sheets and files reviewed include a significant amount of documentation for the basis of the respective permits. In some permits where limits were removed, no explanation was provided in the fact sheet and no specific discussion of anti-backsliding requirements was identified. Proposed action items to help RIDEM strengthen its NPDES permit program include the following:

- When a permit limit is removed or made less stringent, explain the reason for the change in the fact sheet. Explain whether anti-backsliding requirements apply and, if so, how the permit meets such requirements. (Category 2).
- When a limit is carried forward from the prior permit, document the basis of the limit including the validity of the limit in the new permit. (Category 2).
- Limited documentation addressed monitoring frequency. Whenever there is a reduction in monitoring frequency the change should be explained. Some basic discussion of monitoring frequency would also be helpful. (Category 3).
- Include a sample calculation using actual data in the fact sheets rather than the current generic sample calculations or formulas. (Category 3).
- RIDEM should consider merging the permit development document and the fact sheet given that the development document provides key information regarding the basis for the permit limits. The fact sheets currently adopt some of the development document language. (Category 3).

H. National Topic Areas

Proposed actions items for national topic areas are provided below.

1. Nutrients

RIDEM implements narrative water quality standards and one numeric state water quality standard for nutrients in its NPDES permits. Proposed action items to help Rhode Island strengthen its NPDES permit program include the following:

- RIDEM should include in fact sheets a discussion of the receiving water quality above or below the discharges. (Category 2).
- RIDEM should include in fact sheets a discussion of reasonable potential for nutrients to cause or contribute to an exceedance of water quality standards, and, where a reasonable potential is found, an explanation of basis for the limits. (Category 2).

2. Pesticides

The general permit appears to be consistent with program requirements. No action items are proposed based on this PQR.

3. Pretreatment

A proposed action item to help Rhode Island strengthen its NPDES permit program is the following:

- Fact sheets should provide a date the pretreatment program was approved. (Category 3).

4. Stormwater

Action items are presented separately for municipal, industrial and construction stormwater permits. Proposed action items to help Rhode Island strengthen its NPDES permit program are provided below.

Municipal Stormwater Action Items

The Rhode Island Small MS4 General Permit that was reviewed was issued on December 19, 2003. The permit expired on December 19, 2008. EPA and RIDEM have identified reissuance of this permit as a priority.

- RIDEM should reissue its Small MS4 General Permit, which expired on December 19, 2008. Annual EPA-State Performance Partnership Agreements address the time frames for reissuance. (Category 1).
- A number of items should be clarified in the reissued Small MS4 General Permit regarding. (Category 2).
 - a. Public notice of NOIs.

- b. Authorization dates and effective date.
- c. Continuation of expired permit.
- d. Authorized industrial facilities.
- e. Appropriate references to maximum extent practicable.
- f. Appropriate, more prescriptive provisions for addressing discharges to impaired waters with approved TMDLs.
- g. Support of the use of alternative programs to meet permit requirements.

Industrial Stormwater Action Items

Rhode Island's draft *Multi-Sector General Permit – RIPDES – Storm Water Discharge Associated with Industrial Activity (excluding Construction Activity)* is nearly identical to EPA's 2008 MSGP, available to eligible discharges associated with regulated industrial activities. The permit includes a few progressive elements that go beyond the provisions of EPA's MSGP. There are also some areas where the permit could be improved when issued final or reissued as noted in the action items below.

- Unless it is RIDEM's intent to cover a larger universe of activities than EPA's MSGP, Part I.A.1.a language should be modified to affirm that the permit covers discharges from only "primary and co-located industrial activities as defined in Appendix A." In addition, the last two paragraphs discussing co-located activities is misplaced and should be removed and integrated as necessary into the definitions appendix, the monitoring provisions and the sector-specific requirements. (Category 2).
- RIDEM should consider the implications of not including pavement wash waters as an allowable discharge. Furthermore, RIDEM should define *uncontaminated* and *not contaminated* for the purposes of these allowable discharges. (Category 3).
- RIDEM should modify draft language at Part I.B.3 to affirm that the identified discharges are "not eligible" for permit coverage instead of "not authorized." (Category 3).
- RIDEM must include the new airfield deicing ELG (40 CFR Part 449) if it makes eligible discharges subject to the ELG. (Category 1).
- RIDEM should consider making eligible, at its discretion, discharges with previous or existing coverage under an individual permit or alternative general permit that are ineligible per I.B.3.c and d. (See Part 1.1.4.3 of EPA's 2008 MSGP.) (Category 2).
- RIDEM should modify language in Part I.B.3.g to make it consistent with language in sector-specific requirements for Sectors G, H, I and J, clarifying that discharges associated with land disturbance activities in conjunction with mining and oil activities are eligible. (Category 3).

- As provided for other discharges, RIDEM should consider adding a waiting period between NOI submission and authorization for existing discharges that are presently authorized under the 2006 permit. (Category 2).
- Although Part I.B.4.c mirrors relevant language in EPA's MSGP, RIDEM should consider allowing the continuation of general permits for operators that have been denied individual permit coverage. (Category 3).
- RIDEM should add a five-year renewal and resubmission requirement for the No Exposure Certification Exclusion pursuant to 40 CFR 122.26(g)(1)(iii) and consistent with its RIPDES rules and certification form. (Category 1).
- Regarding documentation of non-stormwater discharges in the SWPPP, RIDEM should consider adding a requirement to identify the action(s) taken, such as a list of control measures used to eliminate unauthorized discharge(s), if any were identified. (For example, a floor drain was sealed, a sink drain was rerouted to sanitary or an NPDES permit application was submitted for an unauthorized cooling water discharge.) (Category 2).
- RIDEM should consider implementing an electronic reporting system for submitting DMRs and other data and reports required by the permit. (Category 3).
- Consistent with its FY 2013 PPA, RIDEM should Web-post NOIs submitted by operators seeking coverage under the MSGP. Furthermore, RIDEM should consider identifying in its Web posting the waiting period for authorization and accommodating the receipt of information submitted by the public. (Category 2).
- RIDEM should consider clarifying that the operator should identify secondary (i.e., for co-located industrial activities) SIC codes where applicable for the industrial activities at its facilities. (Category 2).
- RIDEM should consider incorporating modifications similar to those made to EPA's 2013 MSGP once finalized. (Category 2).

Construction Stormwater Action Items

During the April 2013 PQR review the general permit issued on September 26, 2008, was reviewed. The permit is largely consistent with regulatory requirements. Targeted areas of inconsistency were reviewed in a CGP issued in September 2013 after the PQR review, and no action items are proposed based on this PQR.

I. Regional Topic Areas

Proposed action items for special focus areas are provided below.

1. Remediation General Permit Action Items

The RIRGP appears to be consistent with program requirements. No action items are proposed based on this PQR.

2. CSO Action Items

The following action items are proposed to help Rhode Island strengthen its NPDES permit program:

- All CSO permits need to specifically state that discharges from CSOs must not cause violations of state water quality standards. (Category 2).
- The permitting of the wet-weather bypass at the Field's Point treatment facility needs to be consistent with the requirements at 40 CFR 122.41(m). (Category 1).