

Response to Comments
2024 RIPDES Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity

From May 24, 2024, to June 28, 2024, the Rhode Island Department of Environmental Management (DEM) solicited public comments on the Draft Rhode Island Pollutant Discharge Elimination System (RIPDES) Multi-Sector General Permit for Storm Water Discharge Associated with Industrial Activity (MSGP). The deadline for a public hearing was 4 pm on June 24, 2024. RIDEM did not receive any hearing requests, therefore a public hearing was not held. In response to the written comments received during the comment period, DEM prepared the following “Response to Comments” that describes and responds to comments made on the draft MSGP. Specifically, the Response to Comments addresses the following written comments: Save the Bay (June 4, 2024), Woodard & Curran, Inc. (June 24, 2024), RELCO Compliance Services (June 26, 2024), the Narragansett Bay Commission (June 27, 2024), and Waste Management (June 28, 2024).

NO DISCHARGE NOTICE OF NON-APPLICABILITY

Request to Clarify Requirement of No Discharge Certification Submission

Comment 1: Woodard & Curran, Inc. I.F. Facilities with no discharge are not subject to the RIPDES regulations and are not eligible or required to obtain coverage under the MSGP. As such, there seems to be no regulatory basis for establishing requirements for these facilities in the MSGP. We recommend the word “should” be replaced with the word “may” in this paragraph to make it clear that this is not a requirement. In addition, we recommend that a sentence be added to this paragraph stating that the No Discharge Certification is optional and that it is intended to help facilities determine and document their claim of No Discharge. [Note that RIDEM stated this was the case in its response to comment #2 to the 2019 draft MSGP].

Response 1: *The word “should” does not indicate that an action is compulsory or required. Therefore, the MSGP’s draft language does not indicate the No Discharge Certification is a mandatory requirement. The No Discharge Certification was included in the previous MSGP to help facilities determine and document their claim of No Discharge. Providing the option to complete and submit a No Discharge Certification and tracking those submissions will minimize unwarranted efforts in compliance, enforcement, and legal actions when DEM receives questions regarding the permit status of industrial facilities. However, to make it more clear, the following sentence, highlighted below, has been added to Part I.F. of the final MSGP to clarify the purpose of a No Discharge Certification.*

I.F. No Discharge Notice of Non-Applicability. Operators of facilities engineered and constructed to contain discharges of stormwater associated with industrial activity; located in basins or other physical locations so that there will be no discharge of industrial stormwater to waters of the State; or where the industrial stormwater discharges to a Combined Sewer Overflow (CSO) system, should claim no discharge. Operators of facilities with No Discharge should submit a RIPDES No Discharge Certification (NDC) to the Director electronically through NeT. The No Discharge Certification (NDC) is intended to help facilities determine and document their claim of No Discharge.

Request to Update Specifications of No Discharge Certifications

Comment 2: Narragansett Bay Commission (NBC) I.F. The NBC outlined its concerns regarding this section which allows industrial facilities with industrial storm water that discharge to a Combined Sewer Overflow (CSO) system to claim no discharge, exempting them from obtaining a permit or meeting permit requirements. The NBC owns many combined sewer areas within its districts. This provision would encourage facilities located in these areas to discharge potentially contaminated storm water which could eventually discharge through CSOs, effectively making the NBC responsible for these discharges. The NBC is requesting DEM update this provision to specify the following:

1. 'No Discharge Certifications' issued to be copied to the respective local sewer authority.
2. The facility must adopt and adhere to storm water Best Management Practices (BMP).
3. Adhere to the Storm Water Management Design and Installation Rules (250- RICR-150-10-8) following guidance from the Rhode Island Storm Water Design and Installation Standards Manual.

Response 2: *As indicated when the NBC made a similar comment on the previous MSGP, according to CFR 122.26(a)(7) stormwater discharges to combined sewer systems are not subject to the industrial stormwater permitting provisions and, therefore, permitting of stormwater discharges associated with industrial activity which discharge to Combined Sewer Systems cannot be permitted under the MSGP. The option to submit a No Discharge Certification was added to the previous MSGP to assist facilities and the public (including NBC) in determining why these facilities operate without a RIPDES stormwater permit. The DEM website provides a link to an [EPA Permit Search Tool \(https://permitsearch.epa.gov/epermit-search/ui/search\)](https://permitsearch.epa.gov/epermit-search/ui/search) that can be used to search for permit records and related submissions for general permits including the RIPDES MSGP. Coverage requests submitted by site operators can be found here (i.e., General Permit Coverage, No Exposure, No Discharge). DEM is maintaining the No Discharge Certification provisions in the reissued MSGP.*

CONTROL MEASURES AND EFFLUENT LIMITS

Request to Modify Language of Minimizing Impacts from Stormwater Discharges from Major Storm Events

Comment 3: Woodard & Curran, Inc. II.A.4. the United States Environmental Protection Agency's (EPA's) 2021 MSGP requires permittees to *consider implementing* these additional controls only if the facility may be exposed to or has previously experienced such major storm events. To be consistent with the requirements of the EPA 2021 MSGP, we recommend that all of Section II.A.4. be moved to the last bullet item in Section II.A.1. In addition, we recommend that the phrase "must implement" in the first sentence in Section II.A.4 be replaced with "must consider implementing, as appropriate" or that the language be revised to mirror the EPA language in Section 2.1.1.8 of the 2021 EPA MSGP.

Response 3: *Section II.A.4. in the permit applies to major storm events (i.e., hurricanes, storm surge, extreme/heavy precipitation, and flood events). To address pollutant discharges that can result from these types of events, DEM is requiring all permittees to evaluate and implement controls or best management practices to minimize stormwater discharge impacts during major storm events. Unlike EPA's 2021 MSGP, which requires permittees to consider the implementation of additional controls, DEM wants to ensure facilities evaluate all additional control opportunities that may be available. No change to the permit is required.*

Request to Delete the Water Quality Based Effluent Limitation Use of Controls to Prevent Animals from Feeding/Nesting/Roosting Requirement

Comment 4: Narragansett Bay Commission II.B.2.a. The NBC requested the following requirement be removed from the permit: "use all known available and reasonable methods to prevent rodents birds and other animals from feeding/nesting/roosting at the facility." NBC indicated that, while they make every reasonable effort to prevent birds from roosting/nesting near the treatment tanks at their facilities, gulls and other birds are commonplace at wastewater treatment facilities and nearly impossible to prevent from visiting our plants. In addition, as DEM is well aware, two former landfills that surround NBC's Bucklin Point facility have been converted to nature areas complete with osprey nesting sites. The NBC and other industrial facilities should not be responsible for controlling the local wildlife population.

Response 4: *As indicated when the NBC made a similar comment on the previous MSGP, appropriate best management practices can prevent stormwater contamination from dumpsters, composting materials, food waste, or animal products and reduce elevated pathogen levels in stormwater. The permit requires the use of known, available and reasonable methods and does not prescribe the specific methods to be implemented. The controls selected should focus on nuisance animals and birds that would be associated with industrial facilities, not in control of wildlife. DEM recognizes that, if NBC is using every reasonable method, it satisfies this requirement. At any given facility, there may be different or additional controls necessary, due to site-specific conditions. No change to the permit is required. No change to the permit has been made.*

Request to Modify the Water Quality Based Effluent Limitation Inspection to Identify and Eliminate Sewer Cross Connections Requirement

Comment 5: Narragansett Bay Commission II.B.2.a. The NBC commented on the following requirement "Inspect catch basins and other storm water BMPs once per quarter and perform at least one annual dry weather inspection of the storm water system to identify and eliminate sewer cross-connections." While NBC is agreeable to inspect once per quarter, a requirement to conduct an annual dry weather inspection to identify and eliminate sewer cross-connections is unreasonable and unnecessary. Once an initial dry weather inspection is performed to identify and eliminate cross-connections, there is no need to conduct these annual cross-connection inspections thereafter. This requirement is overly burdensome and redundant. NBC construction activity would be the only possible means for a cross-connection to occur and all construction activities are closely monitored to prevent a cross-connection from occurring. Therefore, NBC requests the annual cross-connection monitoring requirement be eliminated from the permit.

Response 5: *As indicated when the NBC made a similar comment on the previous MSGP, the MSGP's requirement is for facilities to inspect their stormwater infrastructure during dry weather conditions, to identify any flows with potential illicit discharges. The permit does not require annual inspections. No change to the permit is required.*

Request to Require PFAS Monitoring for Certain Sectors

Comment 6: Save The Bay Save the Bay commented that landfills and airports are known industrial sources of these contaminants, and so it is logical to get monitoring data. Save The Bay recommended adding PFAS monitoring for at least Sectors C, L, F, S, T, and V.

Response 6: *To address the use of materials containing PFAS at permitted facilities that may be exposed to stormwater, the following section highlighted below has been added to Part II.A.2. and Part V.F.4.b. in the permit.*

II.A.2. Non-Numeric Technology-Based Effluent Limits (BPT/BAT/BCT). The permittee must comply with the following non-numeric effluent limits (except where otherwise specified in Part VIII.) as well as any sector specific non-numeric effluent limits in Part VIII.

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II.A.2.I. Per- and Polyfluoroalkyl Substances (PFAS) Storage and Release.

The permittee shall evaluate whether their facility uses or has historically used any products containing PFAS. All identified materials containing PFAS must be identified in Part V.F.4. of the permit. The permittee shall implement steps to reasonably reduce or eliminate identified materials containing PFAS at the permitted facility that may be exposed to stormwater (e.g., product substitution and replacement; good operating and housekeeping practices). Below is a list of PFAS best management practices (BMPs) and pollution prevention strategies that should be evaluated for implementation:

- Product substitution and replacement. Permittee shall document basis for requiring PFAS and why alternatives are not available in Part V.F.4. of the permit.
- Good operating and housekeeping practices, such as:
 - Chemical inventory regularly maintained.
 - Safe chemical storage, such as secondary containment and placement away from floor drains that lead to Waste Water Treatment Facilities or storm drains, including legacy PFAS chemicals during product substitution.
 - Replacement of contaminated equipment, if it is a source of legacy PFAS discharges.
 - Containing or reusing contaminated equipment in between uses, rather than rinse and disposal.
 - Containing contaminated rinse water of equipment, employee handwashing, or protective gear.
 - Proper operation and maintenance of equipment to avoid malfunction and accidental discharge.
 - Emergency response plan that addresses spill containment and cleanup of PFAS.
 - Employee education and training on good housekeeping, operations, and emergency response.
 - Proper management/disposal of legacy PFAS chemicals.

V.F.4. Summary of Potential Pollutant Sources. The permittee must identify each separate area at the facility where industrial materials or activities are exposed to stormwater and from which allowable non-stormwater discharges are released. Industrial materials or activities include, but are not limited to, material handling equipment or activities; industrial machinery; storage, cleaning, fueling and maintenance of vehicles and equipment storage; and raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each, separate area identified, the description must include:

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V.F.4.b. Pollutants. A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, metals, biochemical oxygen demand, pH, etc.) associated with each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to stormwater between the time of five (5) years before being covered under this permit and the present. In addition, the pollutant list should identify all sources of PFAS and include an evaluation as to whether or not alternatives are available;

CORRECTIVE ACTIONS

Request to Clarify Language for Benchmarks Exceedances

Comment 7: Woodard & Curran, Inc. III.A. Woodard and Curran suggested that additional direction be provided for permittees who were covered under the 2019 MSGP with respect to corrective actions. For example, some permittees may have already implemented Level 1, 2, and 3 corrective actions for a particular outfall and pollutant. Woodard and Curran requested additional guidance on how the tiered corrective action schedule applies in these scenarios.

Response 7: *All permittees who were covered under the 2019 MSGP must resume sampling for any benchmarks that are applicable to their industrial sector. In addition, all previously implemented corrective actions during the 2019 MSGP permit cycle must be maintained. If the permittee was in the process of completing corrective actions during the 2019 MSGP, DEM expects the implementation of these corrective actions to be finished. If there is a benchmark exceedance at the end of the first year under the 2024 MSGP, the permittee will revert to Level 1 corrective action. No change to the permit is required.*

QUARTERLY VISUAL ASSESSMENT OF STORMWATER DISCHARGES

Request to Modify Storm Event Intervals for Visual Assessment and Monitoring

Comment 8: Woodard & Curran, Inc. IV.B.1. & VI.A.3. Woodard and Curran indicated that meeting the 72-hour storm interval, combined with other storm event criteria, has been difficult for many of its clients. Extreme variability in weather patterns contributes to this. It is unclear how permittees would determine an appropriate alternative sampling interval using storm event data for an active sampling period, and at what point during the sampling period this should be determined. A review of the National Weather Service data between April 1 – June 30, 2023 for Providence showed only four storm events that appeared to meet the storm event criteria (including events outside of business hours but excluding weekends). If the 72-hour interval were changed to a 48-hour interval, this would provide additional opportunities for sampling. Woodard and Curran suggested changing the required 72-hour storm interval to 48 hours. In addition, they suggested more detail be provided in the MSGP to explain how and when permittees should evaluate and document local storm event data for a particular monitoring period and under what conditions the storm interval may be shortened.

Response 8: *Based on analysis of recent National Weather Service and National Oceanic and Atmospheric Administration (NOAA) precipitation data, the number of potential sample days following a 48-hour antecedent dry period and a 72-hour antecedent dry period were determined. This precipitation data analysis is shown in the table below. Please note that the potential number of sampling days shown in the table is a dependent factor that can vary for each facility.*

	Number of Potential Sampling Days (Sunday - Saturday)					
	2022		2023		2024	
	72 hrs.	48 hrs.	72 hrs.	48 hrs.	72 hrs.	48 hrs.
Jan	2	5	1	4	1	4
Feb	2	5	3	3	4	4
Mar	3	6	3	4	2	4
Apr	1	3	4	4	3	4
May	3	4	3	3	4	4
Jun	3	6	2	4	3	5
Jan - Jun Sample Period Total	14	29	16	22	17	25
Jul	4	4	5	5		
Aug	4	6	2	5		
Sept	3	4	3	4		
Oct	3	5	3	4		
Nov	3	4	4	5		
Dec	4	6	3	4		
Jul - Dec Sample Period Total	21	29	20	27		

As can be seen from the above analysis, changing the antecedent dry period to 48 hours results in significantly more potential sampling days. Therefore, DEM has decided to decrease the antecedent timeframe to 48 hours to provide permittees with additional opportunities to sample and more flexibility to comply with quarterly visual assessment and monitoring requirements. The antecedent dry period defined in IV.B.1. and VI.A.3. highlighted below was changed from 72 hours to 48 hours any time Sunday through Saturday, including non-business hours.

IV.B.1. Quarterly Visual Assessment Procedures. Twice within the January 1-June 30 monitoring period and twice within the July 1-December 31 monitoring period for the entire permit term, a stormwater sample from each outfall must be collected (except as noted in Part IV.B.3.) and a visual assessment of each of these samples must be conducted. These samples are not required to be collected consistent with 40 CFR Part 136 procedures but should be collected in such a manner that the samples are representative of the stormwater discharge. Each visual assessment of stormwater inspection must be conducted no less than thirty (30) days following the preceding visual assessment of stormwater inspection. The visual assessment must be made:

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- For storm events, on discharges that occur at least ~~48~~72 hours (~~23~~ days) from the previous discharge. The ~~48~~72-hour (~~23~~-day) storm interval does not apply if it is documented that less than a ~~48~~72-hour (~~23~~-day) interval is representative for local storm events during the sampling period.

VI.A.3. Measurable Storm Events. All required monitoring must be performed on a storm event that results in an actual discharge from the site (“measurable storm event”) that follows the preceding measurable storm event by at least ~~4872~~ hours (~~23~~ days). The ~~4872~~-hour (~~23~~-day) storm interval does not apply if the permittee is able to document that less than a ~~4872~~-hour (~~23~~-day) interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs at the site.

Comment 9: Narragansett Bay Commission IV.B.1., VI.A.3, VI.A.4. The NBC has concerns with the following three sections Quarterly Visual Assessment of Storm Water Discharges - Quarterly Visual Assessment Procedures Measurable Storm Events and Sample Type. These sections require both visual assessments and benchmark/impaired water samples be collected within the first 30 minutes of discharge and 72 hours from the previous discharge. Restrictions on when sampling can be performed (i.e. 72 hours from the previous discharge and within 30 minutes of discharge) make complying with these permit requirements extremely challenging during unusually rainy or dry monitoring periods especially for facilities with multiple monitoring locations. The NBC requests that these restrictions be relaxed to allow for collection of samples within the first 3 hours of the start of the discharge and 24 hours from the previous discharge.

In addition, the NBC stresses that storm events do not always occur during normal business hours. Requiring staff to return to the facilities to collect samples outside of business hours may result in a sample being collected outside of the 30-minute requirement. Requiring staff to remain onsite after hours anticipating the discharge from a measurable event may result in excessive overtime expenses if the discharge does not occur particularly in light of unpredictable weather and unreliable weather forecasts. Moreover, collecting samples from storm water monitoring locations during storms that occur in the dark presents safety concerns as most of the monitoring locations are not in well-lit areas as well as staff having to contend with the elements. In addition, holding times specifically for fecal coliform, also need to be considered for samples that are collected outside of normal business hours adding to the challenges presented by these sampling restrictions. The NBC recommends modifying this requirement to allow for collection of samples within 3 hours of discharge, as stated above. The NBC also requests that DEM define “as soon as practicable”. A reasonable interpretation of this phrase would allow staff to collect samples in a safe manner with sufficient time for the samples to be analyzed within the required holding times. However, the last sentence of VI.A.3 which states “The requirements for monitoring under Part VI.A.3 apply regardless of whether the qualifying rain event or snow melt monitoring event occurs during business hours.” is contradictory to that reasonable interpretation of the phrase. The NBC suggests DEM add clarification to the permit of these two contradictory statements.

In summary the cumulative sampling requirements including collecting samples within the first 30 minutes of a measurable events a minimum of 72 hours between measurable events and 30 days between monitoring events are very restrictive specifically when trying to comply with the sampling periods specified in the permit during excessive wet or dry periods.

Response 9: *DEM requires samples to be collected within the first 30 minutes of discharge because the largest concentration of pollutants would be expected to discharge earlier in the storm event and taper off as discharges continue. If it is not possible to collect the sample within the first 30 minutes of discharge, the sample must be collected as soon as practicable after the first 30 minutes and the reason why it was not possible to take samples within the first 30 minutes must be documented. As described in Comment 8, DEM changed the antecedent dry period for monitoring and quarterly visual assessment from 72 hours to 48 hours to offer additional*

opportunities overall for sampling and more flexibility for permittees to comply with the requirements of Part IV.B.1., VI.A.3., and VI.A.4. No additional change to the permit is necessary.

STORMWATER MANAGEMENT PLAN REQUIREMENTS

Request to Clarify SWMP Amendment Requirement

Comment 10: Woodard & Curran, Inc. V.D. Section V.D. requires permittees to immediately amend their SWMP under certain circumstances as specified in this section. Changes are required to be “noted and submitted to this department within thirty (30) days of the date of the amendments.” This language appears to contradict the language in Section V.H., which requires permittees to submit SWMP modifications via a “Change NOI” no later than January 30th following the final routine facility inspection for the year (i.e., with the annual report). We recommend that the last sentence in Section V.D. be revised to be consistent with the language in Section V.H.

Response 10: *DEM changed the language in sections V.D. and V.H. of the permit highlighted below to clarify when SWMP modifications are required to be submitted and how they must be submitted.*

V.D. The permittee shall immediately amend the Plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the State; a release of reportable quantities of hazardous substances and oil; or if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with industrial activity. Changes must be noted and submitted to this department within thirty (30) days of the date of the amendments. An updated SWMP must be submitted electronically using NeT via the submission of a “Change NOI”.

V.H. **SWMP Availability.** The permittee must retain a complete copy of the current SWMP required by this permit at the facility in an accessible format. A complete SWMP includes any documents incorporated by reference and all documentation supporting permit eligibility pursuant to Part I.B. of this permit, as well as the signed and dated certification page. Regardless of the format, the SWMP must be immediately available to facility employees, EPA, RIDEM, and the operator of an MS4 into which the permittee discharges at the time of an onsite inspection. The current SWMP must also be made available to the public (except any confidential business information (CBI), personally identifiable information (PII), or restricted information [as defined in Appendix A]; such information may be redacted), but the permittee must clearly identify those portions of the SWMP that are being withheld from public access. CBI may not be withheld from those staff cleared for CBI review within RIDEM or EPA. Personally identifiable information may not be withheld from RIDEM or EPA staff.

~~At any time after the original NOI submittal, the permittee may submit SWMP modifications via a “Change NOI” in NeT to electronically submit a current SWMP. The permittee must electronically submit to NeT any SWMP modifications, records, and other reporting elements required for the previous year. The SWMP update shall be submitted no later than January 30th (i.e., with the annual report) following the final routine facility inspection for the year.~~

MONITORING REQUIREMENTS

Request to Modify Sampling Monitoring Procedures

Comment 11:

Woodard & Curran, Inc. VI.A.3. We understand that this language is proposed to clarify RIDEM's existing policy regarding stormwater sampling. However, we suggest this be changed to only require stormwater monitoring during regular business hours. Other National Pollutant Discharge Elimination System (NPDES) delegated state agencies have issued industrial stormwater permits that limit stormwater sampling requirements to regular business hours (e.g., the Oregon Industrial Stormwater Discharge General Permit 1200-Z states that sampling is not required outside of regular business hours or during unsafe conditions and the Utah MSGP for Stormwater Discharges Associated with Industrial Activities states that sampling only needs to occur during normal operating hours). Requiring businesses and employees to monitor storm events and conduct sampling during non-business hours is overly burdensome and can result in additional costs for business and potentially unsafe conditions for workers.

Waste Management VI.A.3. The proposed changes to this section indicate that "the requirements for monitoring under Part VI.A.3. apply regardless of whether the qualifying rain event or snowmelt monitoring event occurs during business hours". WMRI anticipates that this requirement will potentially create conditions that are unsafe for samplers, and unmanageable for certain testing criteria.

Sampling during hours when facilities are unmanned creates personal safety risks for samplers. In addition to the physical safety risk already associated with accessing outfalls during storm events in challenging terrain (e.g., vehicle traffic, steep slopes, flowing water, heavy vegetation, and uneven footing), performing this sampling outside of operational hours means that these events would also be conducted during darkness and when emergency assistance from site personnel is not available. Additionally, accessing sampling locations when facilities are not operational presents a personal security risk for samplers who may encounter non-site personnel in dark, isolated areas without visibility by, and assistance from, site personnel.

The other major concern with collecting samples outside of business hours is related to the logistics of completing required Enterococcus sampling and analysis. The allowable hold time for this analysis is 8 hours and is already challenging for samplers and laboratories to achieve with samples collected within normal business hours. Including after-hours sampling of qualifying events will make achieving analysis within hold times for this benchmark unachievable in many instances, which defeats the purpose of sampling.

Based on the unnecessary safety and security risk for samplers, and inability to achieve proper hold times for some analyses, WMRI requests that RIDEM remove the proposed language that would make monitoring requirements apply regardless of whether the qualifying event occurs outside of business.

Response 11: As described in Comment 8, DEM changed the antecedent dry period for monitoring and quarterly visual assessment from 72 hours to 48 hours to offer more opportunities overall for sampling. This change results in more potential opportunities to sample during business hours. In addition, the permit allows businesses to monitor storm events and conduct sampling any time Sunday through Saturday to provide permittees with maximum flexibility to comply with monitoring requirements. No additional change to the permit is necessary.

Comment 12: Narragansett Bay Commission VI.A.3. This section states that all monitoring must be performed on a storm event that results in an actual discharge from the site ("measurable storm event") that follows the preceding measurable storm event by at least 72 hours (3 days). The 72 hour (3 day) storm interval does not apply if the permittee is able to document that less than a 72 hour (3 day) interval is representative for local storm events during the sampling period. Guidance should be provided to assist the permittee in determining an interval of less than 72 hours is representative. This guidance would also assist in sampling periods that are unusually rainy. In addition, this section requires that each monitoring event follow the preceding monitoring event by at least 30 days. This requirement will make satisfying sampling requirements challenging especially during dry sampling periods where the only two measurable events may occur late in the sampling period. The NBC requests this requirement be modified to allow for a time period of at least one week between monitoring events. (See NBC comment in Section IV.B.1).

Response 12: *As described in Comment 8, DEM changed the antecedent dry period for monitoring and quarterly visual assessment from 72 hours to 48 hours to offer more opportunities overall for sampling. In addition, the thirty (30) day interval between sampling events allows RIDEM to provide flexibility in the monitoring (twice monitoring per six-month interval) while still potentially capturing substantially different seasonal variabilities in activities and precipitation. No change to the permit is required.*

Comment 13: Narragansett Bay Commission VI.A.4. This section requires that samples be collected within the first 30 minutes of discharge or as soon as practicable after the first 30 minutes. As previously outlined the restriction that sampling be performed within 30 minutes of a discharge makes complying with the permit difficult. Again, the NBC requests that the collection of samples period be modified as discussed in the comments above. (See NBC comment in Section IV.B.1).

Response 13: *Existing language provides sufficient flexibility for permittees to comply with this requirement. Part VI.A.4. allows permittees to collect samples beyond the first 30 minutes of discharge, as long as the permittee can document why it was not possible to collect the sample within the 30-minute timeframe. No change to the permit is necessary.*

Request to Clarify Language for Data Exceeding Benchmarks and Corrective Action Triggers

Comment 14: Woodard & Curran, Inc. VI.B.1.d. Section VI.B.1.d. indicates that corrective actions must be implemented after collection of one year of samples, if the average of the 4 monitoring values for any parameter exceeds the benchmark value. Language was added to this section in the proposed MSGP to add: "If sampling was not conducted for one or more of the four (4) monitoring values for any parameter in the year, and the average of the remaining monitoring values for that parameter exceeds the benchmark value, the permittee is considered to have triggered Part VI.B.1.d. of this permit and must continue semiannual benchmark monitoring." We have the following comments regarding the added language:

Where the above reads "the permittee is considered to have triggered Part VI.B.1.d.," since the referenced part requires implementation of corrective action, this appears to require implementation of corrective action at the end of the monitoring year, even if a facility has not collected four samples, if the benchmark concentration has been exceeded based on the (fewer than four) sample values obtained. Please clarify whether this is the intended meaning. If so, additional information is needed clarifying how a facility would determine whether the

benchmark concentration was exceeded with fewer than four samples (i.e., calculate the average of the sample values obtained, or determine whether there is mathematical certainty of exceedance based on a 4-sample average). There may be scenarios where a facility has no discharge, for example, for 3 of the 4 sampling periods and only one sample value. It should be made clear that corrective action would only be required if that one sample value was more than four times the benchmark threshold.

The added language in Section VI.B.1.d. seems to contradict the addition to Section VI.B.1.c, which requires a facility to continue semiannual benchmark monitoring if sampling was not conducted for one or more of the four monitoring values for any parameter in the year. This section requires a facility to continue monitoring until the four values have been obtained. As such, the facility could not demonstrate that it has met a benchmark threshold at the end of the monitoring year, but instead they would have to wait until four sample values have been obtained. If a facility needs four sample values to demonstrate they have met a benchmark, the permit should also require four sample values to demonstrate exceedance of a benchmark (except, perhaps, in the case of mathematical certainty of exceedance).

We suggest deleting the second paragraph in Section VI.B.1.d., and revising the first sentence to read “After collection of one year of samples, or after collection of four samples if sampling was not conducted for one or more of the four sampling periods during the year, if the average...” This change would be consistent with the language in Section VI.B.1.c and would provide clarification that benchmark thresholds should be compared to the four-sample average in situations where all four samples are not obtained during a single monitoring year.

Response 14: *Corrective actions shall be triggered when less than four (4) sample results are obtained during the monitoring year, but exceedance of the benchmark is a mathematical certainty. Two examples are provided here for illustration:*

Example 1: *Less than four samples are collected, and corrective actions are triggered.*

BM Value = 20 mg/L

BM Sample Result 1 = 50 mg/L

BM Sample Result 2 = 48 mg/L

BM Sample Result 3 not collected = Assume 0 mg/L result.

BM Sample Result 4 not collected = Assume 0 mg/L result.

Average of 50, 48, 0, and 0 mg/L = 24.5 mg/L

In this instance, sampling was not conducted for one or more of the four (4) monitoring values for the parameter in the year, and the average of the remaining monitoring values for that parameter results in the mathematical certainty that the benchmark value would be exceeded (i.e., the benchmark would still be exceeded even if the results for the additional samples were zero). Therefore, corrective actions required in Part III.A are triggered.

Example 2: *Less than four samples are collected, and corrective actions are not triggered.*

BM Value = 20 mg/L

BM Sample Result 1 = 20 mg/L

BM Sample Result 2 = 36 mg/L

BM Sample Result 3 not collected = Assume 0 mg/L result.

BM Sample Result 4 not collected = Assume 0 mg/L result.

Average of 20, 36, 0, and 0 mg/L = 14 mg/L

In this instance, sampling was not conducted for one or more of the four (4) monitoring values for the parameter in the year, and the average of the remaining monitoring values for that parameter does not result in the mathematical certainty that the benchmark value would be exceeded. Therefore, corrective actions required in Part III.A are not triggered and monitoring must continue.

To clarify whether the benchmark concentration was exceeded with fewer than four samples, DEM modified the language in section VI.B.1.d. of the permit as highlighted below.

VI.B.1.d. Data exceeding benchmarks. After collection of one year of samples, if the average of the 4 monitoring values for any parameter exceeds the benchmark value, the permittee must implement corrective actions in accordance with Part III.A., unless the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background in accordance with Part VI.B.1.e. If the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, the permittee may discontinue sampling in accordance with Part VI.B.1.e.

If sampling was not conducted for one or more of the four (4) monitoring values for any parameter in the year, and the average of the remaining monitoring values for that parameter ~~exceeds the benchmark value~~ results in a mathematical certainty that the benchmark value would be exceeded, the permittee is considered to have triggered Part VI.B.1.d. of this permit and must continue semiannual benchmark monitoring and implement corrective actions in accordance with Part III.A.

REPORTING AND RECORDKEEPING

Request to Modify Deadline for Reporting Monitoring Data

Comment 15: RELCO Compliance Services VII.C. Submitting data within 15 days from end of monitoring period for June 30th or December 30th is not reasonable. Example for a springtime scenario: If the first quarter storm-water sample is taken on March 15th and then the next sample is taken after April 15th (30 days between sampling events). Now we are in a rainy season during April and three dry days may not occur until May 1st. Then there may be no rain events with runoff until end of June, such as June 27th. The sample is then brought to the lab on June 28th for analysis. Typically, results would be available within 7 to 10 days, but many of the labs are short-staffed or are sub-contracting the work because they no longer run all the tests that are requested. It may take 14 days or more to receive the results. Next, we deal with vacation time as many of the business shutdown for the holiday including the lab. The lab results may not even be emailed to the client until after July 15th. A stormwater sample is not the type of sample that is convenient for the permittee as they do not have the ability to retrieve a sample at will. First, they watch the weather, then timing, then personnel to take the sample, and then the sample is brought or shipped to the lab for analysis. It is not un-reasonable to have more time, such as 30 days, to

submit the stormwater data through NetDMR. This scenario is much the same for the December and January holidays.

Response 15: As described in Comment 8, DEM changed the antecedent dry period for monitoring and quarterly visual assessment from 72 hours to 48 hours to offer more opportunities overall for sampling. In addition, DEM suggests facilities sample as early as possible in the sampling period, to avoid issues like those described above in Comment 15. No additional change to the permit is required.

Comment 16: RELCO Compliance Services VII.C. During the previous permit we were told not to enter any stormwater benchmark monitoring data into NetDMR until we had the two stormwater lab reports for that monitoring period, and only then should we enter the data into NetDMR. This system has the first set of stormwater data waiting to be handled until the next set is back from the lab. In some cases, lab reports may be on the to do list for five months before being entered into NetDMR. I recommend one DMR per sampling event.

Response 16: In the 2019 RI MSGP reissuance, DEM changed the reporting frequency from quarterly to semiannual. DEM will maintain semiannual reporting frequency to minimize reporting burdens on permitted facilities. No change to the permit is required.

NOTICE OF INTENT REQUIREMENTS

Request to Clarify SWMP Availability Requirements

Comment 17: RELCO Compliance Services IX.A.12. I noted that on Page 119 the wording references posting the SWMP to webpage, my understanding of the changes is this will no longer be allowed, see wording below: “IX.A.12. The Stormwater Management Plan (SWMP) must be made available either by providing a Universal Resource Locator or URL for webpage where a copy of the current SWMP is available or submitting an electronic copy of the SWMP.”

Response 17: DEM has modified the language to clarify the SWMP availability requirements stated in part IX.A.12. of the permit as highlighted below.

IX.A.12. The Stormwater Management Plan (SWMP) must be made available ~~either by providing a Universal Resource Locator or URL for webpage where a copy of the current SWMP is available or~~ by submitting an electronic copy of the SWMP using Net.