Colorado Water Quality Control Division

Policy No.:

WQP - 27

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WATER QUALITY PERMITS

Approved By:

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LOW RISK DISCHARGES

Background:

In accordance with the Colorado Water Quality Control Act, and consistent with the federal Clean Water Act, no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Water Quality Control Division (Division). The issuance of an individual permit to the operator of each point source, including the enormous number of small point sources, would create a situation of administrative infeasibility for the Division given its limited resources. To streamline the permitting process, the Division has the authority to issue general permits for categories of discharges that involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limits or operating conditions, and require the same monitoring conditions. Once a general permit is issued, operators can apply for certification of coverage and obtain authorization to discharge under the general permit. This approach is particularly useful for categories that have large numbers of discharges across the state.

The Division has used this general permitting approach to cover a wide variety of industrial discharges under the minimal industrial discharge permit, or MINDI. This general permit was specifically designed to cover discharges that are not expected to contain pollutants in toxic concentrations, are small volume, and/or will occur over a very short-term. Both numeric and practice-based regulatory approaches have been used for these types of discharges.

During the MINDI permit renewal process in 2007-2008, the Division attempted to further define and subcategorize the types of industrial discharges that would qualify for coverage. This was to address concerns that the permit covered industry types that were too broad to fit under one permit, meaning that additional general permits would need to be created to address the various categories of discharges previously covered under the MINDI permit. The Division's priority for permitting and compliance is to focus resources on discharges that have the greatest potential to cause water quality impacts. Based on a review of industry types and pollutants expected, the Division has begun to develop new general permits specifically geared to those industrial types, addressing the discharges of most concern first. Through this review, the Division has identified some discharges as low risk discharges, and has also found that few requests for coverage under the MINDI permit have been received for these types of discharges. The Division does not believe it is an efficient use of its limited resources to continue to issue general permits for these discharges.

Policy:

The Division has decided not to issue general permits for minimal industrial discharges with the lowest potential risk to water quality. The Division will develop guidance for these low risk categories of discharges including best management practices (BMPs) intended to be protective of water quality. While regulations do require that operators of point source discharges obtain a CDPS permit, the Division will not take enforcement action for those operators which have not obtained CDPS permit coverage for these discharges, providing that the operator can prove that all appropriate BMPs identified in the guidance have been fully implemented. This approach to enforcement will not apply to criminal violations or in situations where there are egregious circumstances, such as those resulting in serious environmental harm, adverse impacts to the quality of state waters, or which pose an imminent or substantial endangerment to public health and/or the environment.

It should be noted that unpermitted surface water discharges could be subject to third-party or federal enforcement even where BMPs are implemented. Operators wishing to obtain the additional legal protection provided by permit coverage can submit an individual permit application for these discharges to the Division for processing.