EPA’s Industrial Stormwater Update

Emily Halter
US EPA
Office of Water
Outline

• Quick history
• Settlement Agreement
• 2019 NRC Study
• 2020 MSGP reissuance
EPA’s MSGP History

• First issued in 1995, then in 2000, 2008 and 2015
• Current 2015 MSGP expires June 4, 2020
• EPA is the permitting authority in:
  ❖ Four states (ID until 2021, MA, NH, and NM)
  ❖ DC
  ❖ PR, all other U.S. territories except the Virgin Islands
  ❖ Facilities operated by a Federal Operators in four states (CO, DE, VT, and WA)
  ❖ Most Indian Country lands
<table>
<thead>
<tr>
<th>State</th>
<th># of Facilities</th>
<th>EPA Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>AK, AS, CO, DE, ME, MW, ND, PA, SD, UT, VT, WI</td>
<td>1 to 10</td>
<td>1, 3, 5, 8, 9, 10</td>
</tr>
<tr>
<td>GU</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>WA</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>TX</td>
<td>18</td>
<td>6</td>
</tr>
<tr>
<td>OK</td>
<td>19</td>
<td>6</td>
</tr>
<tr>
<td>DC</td>
<td>49</td>
<td>3</td>
</tr>
<tr>
<td>ID</td>
<td>270</td>
<td>10</td>
</tr>
<tr>
<td>NH</td>
<td>293</td>
<td>1</td>
</tr>
<tr>
<td>PR</td>
<td>308</td>
<td>2</td>
</tr>
<tr>
<td>NM</td>
<td>627</td>
<td>6</td>
</tr>
<tr>
<td>MA</td>
<td>788</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2447</strong></td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>EPA Region</th>
<th>% of facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>44%</td>
</tr>
<tr>
<td>2</td>
<td>13%</td>
</tr>
<tr>
<td>3</td>
<td>2%</td>
</tr>
<tr>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>5</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>6</td>
<td>27%</td>
</tr>
<tr>
<td>7</td>
<td>-</td>
</tr>
<tr>
<td>8</td>
<td>1%</td>
</tr>
<tr>
<td>9</td>
<td>1%</td>
</tr>
<tr>
<td>10</td>
<td>12%</td>
</tr>
<tr>
<td>Sector</td>
<td># of Facilities Covered</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------</td>
</tr>
<tr>
<td>P</td>
<td>Land Transportation</td>
</tr>
<tr>
<td>J</td>
<td>Mineral Mining</td>
</tr>
<tr>
<td>N</td>
<td>Scrap Recycling</td>
</tr>
<tr>
<td>E</td>
<td>Glass, Clay, Cement</td>
</tr>
<tr>
<td>S</td>
<td>Air Transportation</td>
</tr>
<tr>
<td>Q</td>
<td>Water Transportation</td>
</tr>
<tr>
<td>M</td>
<td>Auto Salvage Yards</td>
</tr>
<tr>
<td>D</td>
<td>Asphalt/Roofing</td>
</tr>
<tr>
<td>U</td>
<td>Food Products</td>
</tr>
<tr>
<td>A</td>
<td>Timber Products</td>
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<tr>
<td>C</td>
<td>Chemical Products</td>
</tr>
<tr>
<td>Y</td>
<td>Rubber, Misc. Plastics</td>
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<tr>
<td>R</td>
<td>Ship/Boat Building, Repair</td>
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<tr>
<td>AA</td>
<td>Fabricated Metal Products</td>
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<tr>
<td>AC</td>
<td>Electronic, photo goods</td>
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<tr>
<td>G</td>
<td>Metal Mining</td>
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<tr>
<td>AB</td>
<td>Transportation Equip.</td>
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<tr>
<td>B</td>
<td>Paper Products</td>
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<tr>
<td>F</td>
<td>Primary Metals</td>
</tr>
<tr>
<td>I</td>
<td>Oil &amp; Gas</td>
</tr>
<tr>
<td>V</td>
<td>Textile Mills</td>
</tr>
<tr>
<td>H</td>
<td>Coal Mines</td>
</tr>
<tr>
<td>X</td>
<td>Printing, Publishing</td>
</tr>
<tr>
<td>O</td>
<td>Steam Electric Facilities</td>
</tr>
<tr>
<td>T</td>
<td>Treatment Works (WWTPs)</td>
</tr>
<tr>
<td>W</td>
<td>Furniture &amp; Fixtures</td>
</tr>
<tr>
<td>L</td>
<td>Landfills</td>
</tr>
<tr>
<td>AD</td>
<td>Non-classified facilities</td>
</tr>
<tr>
<td>K</td>
<td>Hazardous Waste</td>
</tr>
<tr>
<td>Z</td>
<td>Leather Tanning/Finishing</td>
</tr>
</tbody>
</table>
EPA’s MSGP Components

**Prepare**
- Meet Eligibility Conditions
- Develop SWPPP

**Get Covered**
- Receive NOI Authorization

**Take Action**
- Install Control Measures to Meet Effluent Limits
- Conduct Monitoring
- Conduct Inspections

**Follow-Up**
- Complete Corrective Actions
- Complete Reporting
2015 MSGP Litigation

• Within the period of judicial review of the 2015 MSGP, numerous environmental NGOs challenged the permit; their petitions were consolidated in the Second Circuit. Two industry groups intervened.

• Petitioners agreed to stay the action pending mediation between all parties. Negotiations and two face-to-face meetings with all parties occurred beginning in October 2015.

• A settlement agreement was signed in 2016
Settlement Agreement

**Key term to complete**

1) Fund NRC Study (completed February 2019) and “consider” all recommendations in the 2020 MSGP

**Permit authorization terms to propose**

2) Additional 30 days for EPA to review NOI for facilities with a pending enforcement action
3) Expand existing CERCLA eligibility criterion to all Regions
4) Add new eligibility criterion related to coal tar sealcoat use

**Monitoring terms to propose**

5) Tiered response protocol (“Additional Implementation Measures” (AIM)) to implement more robust control measures for benchmark exceedances
6) Option to discontinue impaired waters monitoring based on compliance success after three years but narrow list of monitoring parameters

**Other terms to complete**

7) Conduct effluent limit comparative analysis with other state MSGPs
8) Update sector-specific fact sheets with available control measures
2019 NRC Study Recommendations

Monitoring Recommendations

- **Regulate non-industrial facilities** with industrial activity under the MSGP (p. 26)
- **All facilities** should conduct benchmark monitoring for pH, TSS, and COD (p. 27)
- **Add benchmark monitoring** for some sectors based on new scientific information (p. 29)
- **Update** some benchmark values, **add** flexibility and/or **suspend** others based on latest toxicity information (p. 32)
- Encourage facilities to **collect more stormwater control performance data** to inform development of future effluent limits (p. 55)
- **Did not recommend** developing new Numeric Effluent Limits at this time (p. 41)
2019 NRC Study Recommendations

Data Collection Recommendations

• Option to use composite sampling instead of grab sampling (p. 47)
• Require a minimum of annual monitoring for benchmark parameters throughout the permit (p. 49)
• Develop a certificate program in stormwater collection and monitoring (p. 51)
• Encourage state adoption of a CWA national laboratory accreditation program with a focus on stormwater, periodic inter laboratory calibration (p. 52)
• Implement a tiered approach to monitoring within the MSGP, including an inspection-only option for low-risk facilities in lieu of monitoring (p. 53)
• Enhance electronic data reporting and visualization (p. 63)
2019 NRC Study Recommendations

Retention Recommendations

• Rigorous site **characterization, permitting, and monitoring** are needed for any industrial stormwater infiltration to protect GW (p. 72)

• National retention standards **are infeasible** within the current MSGP framework (p. 77)

• Consider **incentives to encourage infiltration** or capture and use where appropriate (p. 79)

• Develop **guidance for retention** and infiltration at industrial stormwater facilities (p. 79)
EPA’s 2020 MSGP proposal process

1) Tiering → 2) Workgroup formation & initial input → 3) Review & digest NRC Study → 4) Early guidance

5) Early stakeholder outreach → 6) Develop draft permit requirements → 7) Internal briefings on draft permit

8) Edit draft → 9) EO 12866 Interagency Review (OMB)

10) Edit draft → 11) Internal review → 12) Regional Signatures

13) FR Publication → 14) Public Comment Period
Coming soon to a Federal Register near you...
2020 MSGP Proposal

- Settlement Agreement revised in Fall 2019 with new signature deadline for proposal of **February 15, 2020**
- Must finalize 9 months after proposal is signed (by November 15, 2020)
- Intend to propose for a 60-day public comment period
- Intend to host 2 information webcasts to review proposed changes in detail
- Will announce via:
  - Federal Register
  - Website [https://www.epa.gov/npdes/stormwater-discharges-industrial-activities](https://www.epa.gov/npdes/stormwater-discharges-industrial-activities)
  - NPDES News (sign up [https://lp.constantcontact.com/su/bvF6Dae/npdes](https://lp.constantcontact.com/su/bvF6Dae/npdes))
  - NPSInfo (sign up [https://www.epa.gov/nps/npsinfo-discussion-forum](https://www.epa.gov/nps/npsinfo-discussion-forum))
  - Stormwater Listserv (email Rachel to be added urban.rachel@epa.gov)
  - All current permittees
  - ACWA!
  - Other stakeholder, environmental, industry groups
Other reissuance tasks

- Tribal consultation *(complete)*
- Endangered Species Act (ESA) consultation *(ongoing)*
- eReporting enhancements *(ongoing)*
- Stakeholder engagement *(ongoing)*
- 401 Certification conditions request *(will request during comment period)*
- Review and respond to public comments
Thank you

Emily Halter
Halter.Erin@epa.gov
202-564-3324

Industrial Stormwater & Construction Stormwater

**EPA HQ MSGP Team:**
Emily Halter
Rachel Urban
Jenelle Hill
Katelyn Amraen
Chris Creech

**EPA MSGP Workgroup:**
All 10 EPA Regions
OECA, OGC, ORD, OP