



# EPA's Industrial Stormwater Update



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# 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



State	# of Facilities	EPA Region
AK, AS, CO, DE, ME, MW, ND, PA, SD, UT, VT, WI	1 to 10	1, 3, 5, 8, 9, 10
GU	12	9
WA	13	10
TX	18	6
OK	19	6
DC	49	3
ID	270	10
NH	293	1
PR	308	2
NM	627	6
MA	788	1
<b>Total</b>	<b>2447</b>	



EPA Region	% of facilities
1	44%
2	13%
3	2%
4	-
5	<1%
6	27%
7	-
8	1%
9	1%
10	12%

Sector		# of Facilities Covered
<b>P</b>	<b>Land Transportation</b>	<b>346</b>
<b>J</b>	<b>Mineral Mining</b>	<b>285</b>
<b>N</b>	<b>Scrap Recycling</b>	<b>179</b>
<b>E</b>	<b>Glass, Clay, Cement</b>	<b>166</b>
<b>S</b>	<b>Air Transportation</b>	<b>149</b>
<b>Q</b>	<b>Water Transportation</b>	<b>110</b>
<b>M</b>	<b>Auto Salvage Yards</b>	<b>110</b>
<b>D</b>	<b>Asphalt/Roofing</b>	<b>107</b>
<b>U</b>	<b>Food Products</b>	<b>103</b>
A	Timber Products	88
C	Chemical Products	80
Y	Rubber, Misc. Plastics	56
R	Ship/Boat Building, Repair	56
AA	Fabricated Metal Products	54
AC	Electronic, photo goods	53

Sector		# of Facilities Covered
G	Metal Mining	46
AB	Transportation Equip.	44
B	Paper Products	36
F	Primary Metals	28
I	Oil & Gas	28
V	Textile Mills	18
H	Coal Mines	13
X	Printing, Publishing	13
O	Steam Electric Facilities	9
T	Treatment Works (WWTPs)	4
W	Furniture & Fixtures	4
L	Landfills	3
AD	Non-classified facilities	3
K	Hazardous Waste	3
Z	Leather Tanning/Finishing	-



# 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
  - <https://www.nap.edu/catalog/25355/improving-the-epa-multi-sector-general-permit-for-industrial-stormwater-discharges>

## 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 interlaboratory 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)







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>
  - NPDES News (sign up <https://lp.constantcontact.com/su/bvF6Dae/npdes>)
  - NPSInfo (sign up <https://www.epa.gov/nps/npsinfo-discussion-forum>)
  - Stormwater Listserv (email Rachel to be added [urban.rachel@epa.gov](mailto: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

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Industrial Stormwater &  
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