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April 29, 2025

#### **To:**

Alicia Denning  
U.S. Environmental Protection Agency  
Office of Water, Office of Wastewater Management  
Mail Code 4203M,  
1200 Pennsylvania Avenue NW,  
Washington, DC 20460

#### **Attention:**

Docket ID No. EPA-HQ-OW-2024-0481, FRL 11244-01-OW  
National Pollutant Discharge Elimination System (NPDES) 2026 Issuance  
of the Multi-Sector General Permit for Stormwater Discharges Associated  
with Industrial Activity

#### **Re:**

Association of Clean Water Administrators (ACWA) Comments on  
Proposed MSGP Permit

Dear Ms. Denning,

ACWA is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers (hereafter referred to simply as “states”), who daily implement the clean water quality programs of the Clean Water Act (CWA). As the primary entities responsible for carrying out most of the CWA programs, states are very interested in national permit updates that may directly impact or indirectly influence how the CWA is implemented in their states.

ACWA recognizes this proposed permit will only apply in those areas where the United States Environmental Protection Agency (EPA) is the permitting authority. As with all national NPDES general permits, states and other stakeholder groups may look to this federal permit as potentially setting baseline assumptions, actions, standards, benchmarks, reporting requirements, and environmental and human health protections. And while state NPDES permitting authorities may choose a different legal and scientifically defensible approach, the presumption created by a national NPDES general permit still has some gravitas. At this point, it is also important to note that ACWA’s comments provided in this letter are not intended to undermine the position/comments/observations of any individual state or territory, especially where EPA is the permitting authority. ACWA respectfully requests EPA defer to those state observations.

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### **AIM Response Reporting and Benchmark Monitoring**

For the most part, those states that have embraced the AIM benchmark approach are indifferent to the proposed 2026 MSGP *Aim Response Reporting* updates. One observation made by a couple of states was the challenge they had with understanding the impact of AIM in the last permit, so they could better understand the value of the latest updates. More information or perhaps an informal conversation between states and EPA might better connect the dots and help states better understand why and how these new updates will improve the program. Several states support EPA's new approach using an annual average over several quarters to determine whether a facility can discontinue benchmark monitoring. At least two states indicated they thought the permit sections dedicated to data exceedances and corrective actions were more concise and easier to understand in the pre-AIM permits.

Another issue raised by a couple of states relates to the burden of monitoring and the need for EPA to support a facility's efforts to assess and determine stormwater pollution being discharged from their site is running on to their site from another source. If a facility can make a scientifically defensible case, the facility could be exempted from future monitoring for this pollutant. Some states believe any persistent or bio accumulative pollutant should always be monitored for the entire permit term regardless of concentration or total load.

### **PFAS Detection, Monitoring, and Reporting**

Most states indicated support for PFAS indicator monitoring. Indicator monitoring should occur in advance of benchmark monitoring. States providing comments on this issue believe EPA is taking the correct approach in using PFAS indicator monitoring data to "conduct an initial quantitative assessment of the levels of PFAS in industrial stormwater, further identify industrial activities with the potential to discharge PFAS in stormwater and inform future consideration of potential PFAS benchmark monitoring for sectors with the potential to discharge PFAS in stormwater."

However, the frequency (quarterly) and duration (life of the permit) for the monitoring raised concern for some states. Especially if PFAS is not detected. At the moment, there is limited lab capacity within the states to handle this potential significant increase in sampling, were all 47 state permitting authorities to embrace the same frequency and duration. Likewise, the cost to industry would be significant. More than one state believes the lab capacity does not currently exist for implementing these monitoring requirements nationwide, and delaying this requirement until capacity exists may be necessary and appropriate in some states. At least one state indicated they believed establishing monitoring requirements in advance of actionable thresholds and a final method might be premature and could confuse the public regarding environmental and human health risks. Another state indicated support for a voluntary PFAS monitoring program and/or the use of more frequent monitoring only after detection occurs. Some states believe having an off ramp to discontinue PFAS monitoring under appropriate conditions would be helpful.

If there are new industrial sectors where EPA believes PFAS might be found, e.g. for timber products, paper and allied products, asphalt paving, land transportation and warehousing, and food and kindred products, EPA should consider sharing/referencing new data that indicates PFAS might be in these sectors as well. States would like to have the scientific foundation to do the same

in their state if appropriate. As EPA considers new and old sectors, at least one state wanted to reinforce support for the continued inclusion of airports and fire-fighting foams.

### **6PPD-quinone**

There are several states that support monitoring for 6PPD and/or 6PPD-quinone, but a couple states indicated they would prefer this to remain an individual permitting authority decision based on detection, presence of a sensitive species, appropriate methodology, and lab capacity. There are several industrial sectors associated with vehicle and tire manufacturing and disposal (example SIC codes 5014, 5015, 5093, etc.) that could be targeted for monitoring. States would like to talk with EPA further regarding the frequency and duration of monitoring, which might also include an offramp after so much time with no detections. EPA may also wish to consider best management practices (BMPs) related to tire storage that might help reduce offsite discharge.

### **Water Quality Based Effluent Limitations**

States are aware that the use of generic/general water quality-based language in a permit that specifically focuses on end-result requirements has been historically controversial, may not provide sufficient notice to a permittee, and is an issue now settled by the Supreme Court. States appreciate EPA's efforts to consider greater specificity in a general permit and are very interested in discussing impacts of this legal decision for the MSGP and across the entire NPDES program.

### **Facility Closures**

A couple of states requested greater clarity from EPA regarding facility closures and whether EPA is requiring that a facility must meet all three criteria prior to providing an appropriate Notice of Termination. These criteria include: 1) operations have ceased at the facility; 2) there are no longer discharges of stormwater associated with industrial activity and; 3) necessary erosion and sediment controls have already been implemented at the facility as required by Part 2.1.2.5. The confusion arises in the permit language where there is use of an "and/or" which implies either option is available when seeking Notice of Termination, rather than both.

### **Lands of Exclusive Federal Jurisdiction**

EPA recently proposed modification to the [Construction General Permit](#), and now more recently in this proposed MSGP permit, coverage for facilities/discharges within "Lands of Exclusive Federal Jurisdiction." Many states have expressed concern and confusion over this new language, especially states that have historically issued NPDES permits to federal facilities. States are concerned that this language could undermine their ability to appropriately regulate stormwater from federal facilities going forward. There is also a broader concern that EPA has not fully thought through how this designation impacts state water quality standards, 401 certification, monitoring, assessment, TMDLs, permitting, and other state environmental programs. ACWA recommends that EPA set up future conference calls with states to discuss implementation challenges and the full scope of scientific, programmatic, and legal consequences for facility/agency use of this designation.

## **Conclusion**

As you consider public input on the proposed permit, we respectfully request that EPA meet with states one final time before publishing to discuss updates and potential final revisions. States can provide feedback on these updates/changes and help EPA avoid unintended consequences/impacts. Though ACWA's process to develop comments is robust and intended to capture the diverse perspectives of the states that implement these programs, EPA should always give serious consideration to the comments and recommendations that come directly from states, interstates, and territories as well. Please contact ACWA's Executive Director, Julia Anastasio, at [janastasio@acwa-us.org](mailto:janastasio@acwa-us.org) or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,

A handwritten signature in black ink that reads "Adrian Stocks". The signature is written in a cursive, flowing style.

**Adrian Stocks,**

ACWA President  
Director, Bureau of Water Quality  
Wisconsin Department of Natural Resources