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2021 NPDES Multi-Sector General Permit for Industrial Stormwater Discharges: U.S. Environmental Protection Agency Issues Pre-Publication Federal Renewal

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The United States Environmental Protection Agency (“EPA”) issued a pre-publication Federal Register Notice for its 2021 Clean Water Act National Pollution Discharge Elimination System Multi-Sector General Permit for Industrial Stormwater Discharges (“MSGP”).

The MSGP is a general permit (as opposed to an individual permit) utilized by EPA to address stormwater discharges associated with thousands of different types of facilities in the United States.

The MSGP applies to any number of businesses in multiple industrial sectors. Examples might include cement mixing, scrap metal, trucking, food processing, printing and publishing, oil and gas extraction, and asphalt paving and roofing materials. A separate general permit is used for construction activities.

EPA’s MSGP is utilized in states that do not have primacy for this permitting program.

EPA first established NPDES permit requirements for industrial stormwater discharges in 1990. The agency issued the first MSGP for these facilities in 1995. The 2021 MSGP represents the latest renewal of this permit. It becomes effective on March 1, 2021. The previous 2015 MSGP had been administratively continued since it expired on June 3, 2020. The MSGP has a term of five years.

The 2021 MSGP is similar to the 2015 MSGP in that it is structured in nine parts. These include:

- General requirements that apply to all facilities (i.e., eligibility requirements, effluent limitations, inspection and monitoring requirements, Stormwater Pollution Prevention Plan, and reporting and recordkeeping requirements) (Part 1-7)
- Industrial sector-specific conditions (Part 8)
- State and tribal-specific requirements applicable to facilities located within individual states or Indian Country (Part 9).

A number of appendices provide various forms such as Notice of Intent, Notice of Termination, Conditional No Exposure Exclusion, Discharge Monitoring Report, and Annual Report.

The 2021 MSGP reflects information generated by a study EPA funded that was conducted by the National Academies of Sciences, Engineering, and Medicine’s National Research Council. This study was

undertaken pursuant to a Settlement Agreement in which certain organizations challenged the 2015 MSGP.

The study focused on potential permit improvements which involved the key issue of monitoring requirements. EPA had agreed that it would consider the recommendations suggested in the completed study.

A key new provision requires certain operators to undertake indicator analytical monitoring for three parameters:

- pH
- Total Suspended Solids (“TSS”)
- Chemical Oxygen Demand (“COD”)

Such monitoring is required to be undertaken quarterly for the duration of the permit.

Broadly speaking, other revisions or additions to the MSGP include:

- Streamlining (an attempt to provide simplified language)
- Public sign of permit coverage (requirement that operators post a sign of permit coverage at a publicly accessible location in close proximity to the facility)
- Consideration of stormwater control measure enhancements for major storm events (requires consideration of implementing enhanced stormwater control measures for facilities that could be impacted by major storm events)
- Indicator monitoring for pH, TSS and COD for subsectors without benchmark monitoring (requires certain operators to conduct indicator analytical monitoring for these parameters)
- Indicator monitoring for polycyclic aromatic hydrocarbons for certain sectors (report-only indicator analytical monitoring)
- Updating the benchmark monitoring schedule (benchmark monitoring quarterly in their first and fourth years of permit coverage)
- Updating benchmark values (updating benchmark monitoring thresholds for aluminum, copper for discharges to freshwater, selenium for discharges to freshwater, and cadmium based on Section 304(a) national recommended aquatic life water quality criteria)
- Additional implementation measures (revisions to the Additional Implementation Measures requirements for benchmark monitoring exceedances)
- Impaired waters monitoring

Note that Arkansas has been authorized to administer the NPDES stormwater permitting program. As a result, the EPA 2021 MSGP is not applicable in this state. Nevertheless, states with primacy often take into account to some extent EPA’s choices (i.e., in terms of permit conditions and limitations) in revising or reissuing their general stormwater permits.

A link to the pre-publication Federal Register Notice can be found [here](#).