



# whitepaper

## EPA's New Industrial Stormwater General Permit and How it Might Impact Your State's Program

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April 12, 2021

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On February 19, 2021, EPA issued a new multi-sector general permit (MSGP) for stormwater discharges associated with industrial activity. A copy of this general permit can be found [here](#). The new MSGP went into effect on March 1, 2021, and applies in areas of the country where EPA is the NPDES permitting authority and has made the MSGP available for coverage. These areas include Massachusetts, New Hampshire, New Mexico, most Indian country lands, Puerto Rico, the District of Columbia, and most territories and protectorates. For now, this also includes Idaho; however, authority for industrial stormwater will transfer from EPA to Idaho on July 1, 2021. Certain federal facilities and oil and gas operations are also covered by the new general permit. Operators with current permit coverage in these areas have until May 30, 2021, to submit a new Notice of Intent (NOI) to continue permit coverage.

Most states have authority to issue their own stormwater permits, including stormwater permits associated with industrial activity. However, about two-thirds of these state-specific permits are identical or like EPA's MSGP. It is likely that states with authority to issue their own MSGPs will incorporate most of the new 2021 MSGP requirements (described below) as their respective MSGPs come up for renewal over the next several years. Therefore, this summary will provide a head start on understanding likely future compliance obligations under the next round of renewed MSGPs.

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## **SIGNIFICANT CHANGES TO MSGP FOR 2021**

After the 2015 MSGP was issued, environmental and industry groups challenged the permit. A settlement was reached in August 2016. This settlement required EPA to fund a study on possible improvements to the MSGP. The study was conducted jointly by the National Academies of Sciences (NAS) and the National Research Council (NRC), and the results were published in 2019. EPA used results from this 2019 study and other information to promulgate several new or modified permit requirements. These requirements are briefly described in the following sections.

### **Permit Streamlining**

EPA streamlined and simplified language in the 2021 MSGP. Portions of the 2021 MSGP were reformatted. These changes should enhance one's understanding of, and compliance with, the permit.

### **Signage and SWP3 Availability**

A sign of permit coverage must now be placed at a publicly accessible location near each permitted facility. This sign must include information about the facility and the permit. It must also include information on how the public can get a copy of the facility's stormwater pollution prevention plan (SWP3) and how the public can report the occurrence of stormwater pollution at the facility.

### **Enhancements to Control Measures**

Facilities potentially impacted by major storms (*e.g.*, hurricanes, storm surge, floods) must consider implementing enhanced control measures to address the risks associated with such impacts.

### **Indicator Monitoring**

Indicator monitoring results are "report only" and do not have specific numeric thresholds. The results provide EPA with a comparable understanding of stormwater discharge quality, broader water quality

problems, stormwater control measure (SCM) effectiveness, and potential need for future benchmark monitoring requirements.

There are now two types of indicator monitoring in the new general permit. First, facilities in sectors without benchmark monitoring requirements (described below) must monitor for pH, total suspended solids (TSS) and chemical oxygen demand (COD). Samples must be collected once per quarter for the duration of the permit. Second, certain sectors must monitor for polyaromatic hydrocarbons (PAHs). Samples for PAH testing must be collected twice per year in the first and fourth year of the permit.

### **Benchmark Monitoring**

Unlike indicator monitoring, benchmark monitoring consists of specific numeric thresholds for certain chemicals. Threshold exceedances indicate SWP3 and/or SCM measure deficiencies that must be quickly corrected.

There are two benchmark monitoring changes in the new general permit. First, based on updated aquatic toxicity data, EPA increased the benchmark monitoring thresholds for aluminum and copper and decreased the thresholds for cadmium and selenium. Thresholds for iron and magnesium were removed from the permit. Second, benchmark monitoring must be conducted once per quarter in the first and fourth years of the permit. If the four-quarter annual average is less than the threshold, the operator can stop monitoring in the second and third year and/or fifth year of the permit. If a four-quarter annual average exceeds a threshold, then the operator must continue quarterly monitoring until the average is less than the threshold.

### **Additional Implementation Measures (AIM)**

Following one or more benchmark threshold exceedances, Additional Implementation Measures (AIM) will be required. These consist of three tiers of increasingly robust responses to mitigate stormwater pollution (Table 1). With each exceedance, a facility must move to the next higher, more robust tier or AIM level. Once the sampling average falls below the threshold, the permitted facility can return to a

baseline status without any AIM. Baseline status is when the four-quarter annual average is less than the benchmark monitoring threshold. Finally, there are several exceptions allowing a permitted facility to return to baseline status.

**Table 1. Summary of Three Tiers for Additional Implementation Measures (AIM) after Benchmark Monitoring Exceedance.**

Trigger	AIM Level	Responses	Deadlines	Reset	Exceptions
Threshold Exceedance	3	<ul style="list-style-type: none"> <li>Permanent controls</li> <li>Treatment Controls</li> <li>Continue Monitoring</li> </ul>	Schedule 14 days, install 60 to 90 days	(For all AIM Levels) Below threshold	(For all AIM Levels) Background sources
Threshold Exceedance	2	<ul style="list-style-type: none"> <li>Pollution prevention</li> <li>Good housekeeping</li> <li>Continue Monitoring</li> </ul>	14 days, if infeasible 45 days		Run-on sources One-time abnormal event
Threshold Exceedance	1	<ul style="list-style-type: none"> <li>Review SWP3/SCM</li> <li>Implement Add'l SCM</li> <li>Continue Monitoring</li> </ul>	14 days, if infeasible 45 days	Complete responses	Comply w/ facility-specific Al/Cu thresholds Comply w/ WQS

**START HERE**

**Baseline Status (no exceedances)**

Notes/comments:

Al = Aluminum, Cu = Copper, SCM = Stormwater control measure, SWP3 = Stormwater pollution prevention plan, and WQS = Water quality standard.

### Impaired Waters Monitoring

Facilities discharging to an impaired waterbody with a Total Maximum Daily Load (TMDL) must conduct annual monitoring in the first and fourth years of the permit for pollutants causing the impairment. If a pollutant is not detected, the permitted facility can discontinue monitoring until the fourth year of the permit. If a pollutant is detected, the permitted facility must continue annual monitoring. In the fourth year of the permit, the permitted facility must monitor for a subset of pollutants related to your specific industrial activity and/or benchmarks parameters.

## **STATE-SPECIFIC PERMITS FOLLOW EPA's MSGP**

States with delegated permitting authority are not required to follow EPA's MSGP. However, [according to EPA](#), about two-thirds of the state-specific permits across the country are either identical or like EPA's MSGP. In EPA Region 4, Alabama, Florida, and North Carolina do not follow EPA's MSGP. However, about three-fourths of the permit requirements for the other states in the region are identical or like the MSGP (Table 2). Permitted facilities should carefully track the expiration dates for their respective state-specific stormwater permits. When these permits are renewed, it is likely they will be identical or like EPA's 2021 MSGP. This summary should provide permitted facilities with a head start on complying with state-specific stormwater permit.

## **CONCLUSION**

In February 2021, EPA issued a new MSGP for stormwater discharges associated with industrial activity. EPA's 2021 MSGP went into effect on March 1, 2021, for certain jurisdictions as well as for certain federal facilities and oil and gas operations. Most states have authority to issue their own stormwater general permits for industrial activity. However, about two-thirds of these state-specific permits are identical or like EPA's MSGP. Therefore, this summary should provide permitted facilities with a head start on planning for compliance with these state-specific permits well before they are renewed.

**Table 2. Summary of Stormwater Permit Requirements in EPA Region 4 and Similarity to EPA's MSGP.**

State	Similar <sup>(c)</sup>	Permit No.	Effective	Expiration	Comments
AL <sup>(a)(b)</sup>	---	ALG160000 (Landfill)	2/1/17	1/31/22	---
		ALG360000 (Hydroelectric)	2/1/21	1/31/26	
FL <sup>(a)</sup>	---	Rule 62- 621.300(5)(a), F.A.C.	---	Permit coverage 5 yrs.	Incorporates by reference 1995 MSGP (60 FR 50804)
GA	●	GAR50000	6/1/17	5/31/22	Patterned after EPA 2015 MSGP
KY	◐	KYR00	8/1/18	7/31/23	---
MS	◑	MSR00	12/12/20	11/30/25	Re-coverage forms were due 3/29/21
NC <sup>(a)(b)</sup>	---	NCG020000: Mining Activities	10/1/20	5/1/21	---
		NCG190000: Marinas & Shipbuilding	10/1/20	5/31/25	
SC	●	SCR000000	10/1/16	9/30/21	Permit currently under review for renewal.
TN	◐	TNR050000	6/20/20	6/20/22	Reissued 2015 permit for 2 yrs.

Notes/Comments:

(a) = Does not use EPA's MSGP as a guide for their state-specific permit.

(b) = Multiple state-specific permits are available for different industrial activities, these are examples.

(c) = Portion of state permit either identical or similar to MSGP; e.g., GA about 100% and MS about 36%.

## MORE to EXPLORE

EPA's Stormwater Discharges from Industrial Activities - 2021 MSGP can be found [here](#)

File: Whitepaper MSGP 2021-04-12

Reasonable care was used in summarizing this information; however, it is provided on an "as is" basis with no guarantees of completeness, accuracy, usefulness, or timeliness.