

# **EPA'S PROPOSED 2020 MULTI-SECTOR GENERAL PERMIT (MSGP) FOR INDUSTRIAL STORMWATER DISCHARGES**

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**EMILY HALTER  
US EPA**



# Help with the webcast

- GoToWebinar support website: <https://support.goto.com/webinar>
  - Go through the questions prompts
  - You may experience longer wait times if you call
- And if all else fails...
  - Previously recorded webcast: <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities>
  - And THIS webcast will also be posted online on the page above within 1-2 weeks

# Before We Get Started



Language in this presentation is not the official proposal of the EPA. We have attempted to be accurate as to the contents of the proposed permit. To the extent any difference between the language in this presentation differs from the language in the proposed permit, the permit governs.

# KEY MESSAGES

1

Most new proposed requirements were informed by the 2016 settlement agreement and/or the 2019 National Academies study.

2

The purpose of every proposed requirement is ultimately to minimize discharges of pollutants in stormwater from industrial activity.

3

Not all requirements will apply to every facility, and even if they apply to you, they might not apply all of the time.

4

This presentation is just an overview of the proposed permit.

5

Help us by commenting and providing additional data on pollutants, control measures, and costs.



# WHAT'S AHEAD

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- Polls
- Background
- Expiring 2015 MSGP
- COVID-19 information
- Proposed changes
- Requests for comments
- Costs
- Public comment period
- Q&A

*This presentation will probably go over time!*

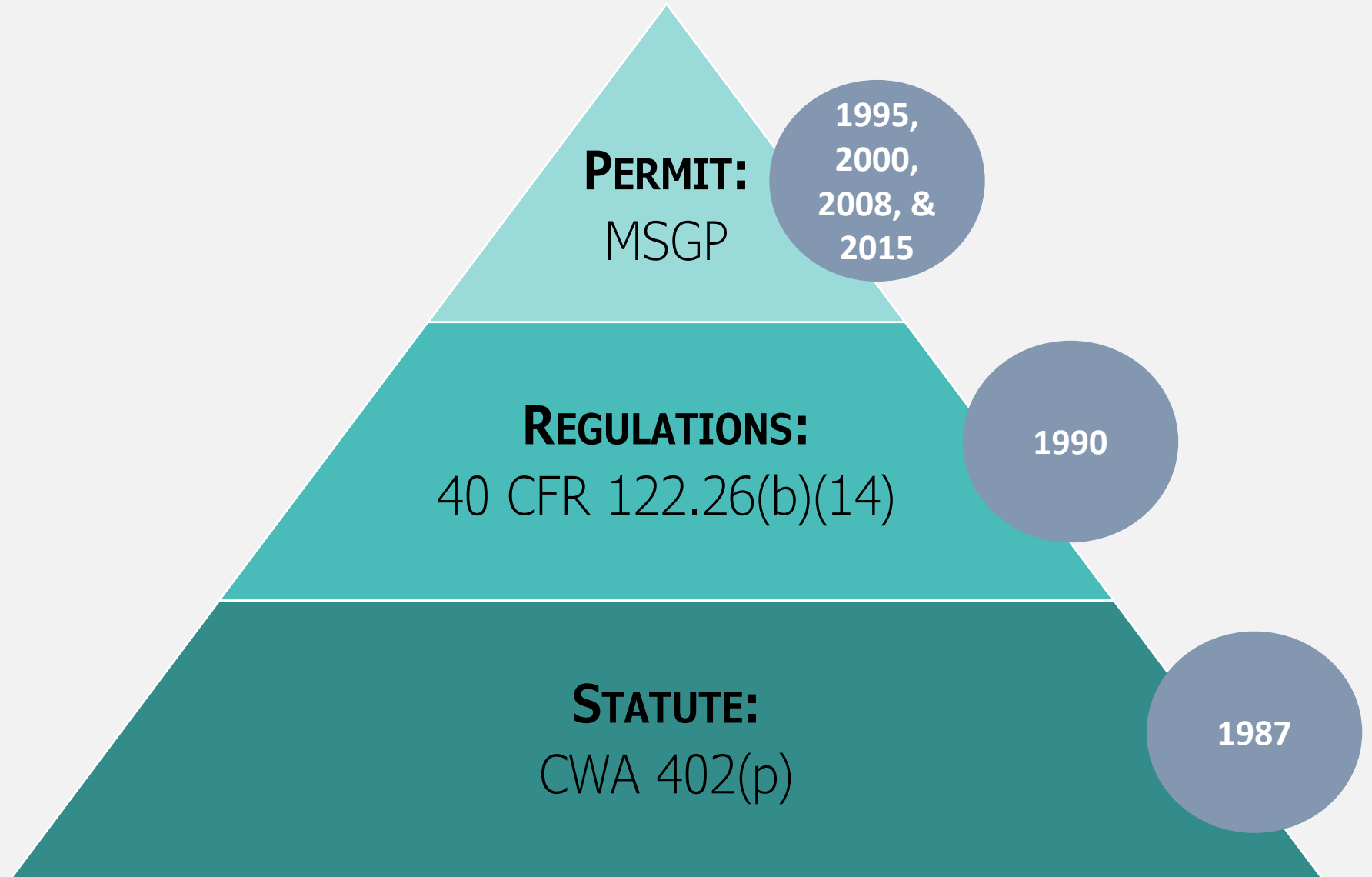
# PLEASE BEAR WITH US



# **PERMIT BACKGROUND**

# HOW DOES EPA REGULATE INDUSTRIAL STORMWATER DISCHARGES?

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**PERMIT:**  
MSGP

**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 Any  
Corrective  
Actions and/or  
AIM As  
Required

Complete  
Reporting

**IS THERE AN  
EXCLUSION?**

**CONDITIONAL  
EXCLUSION FOR  
"No  
EXPOSURE"\***

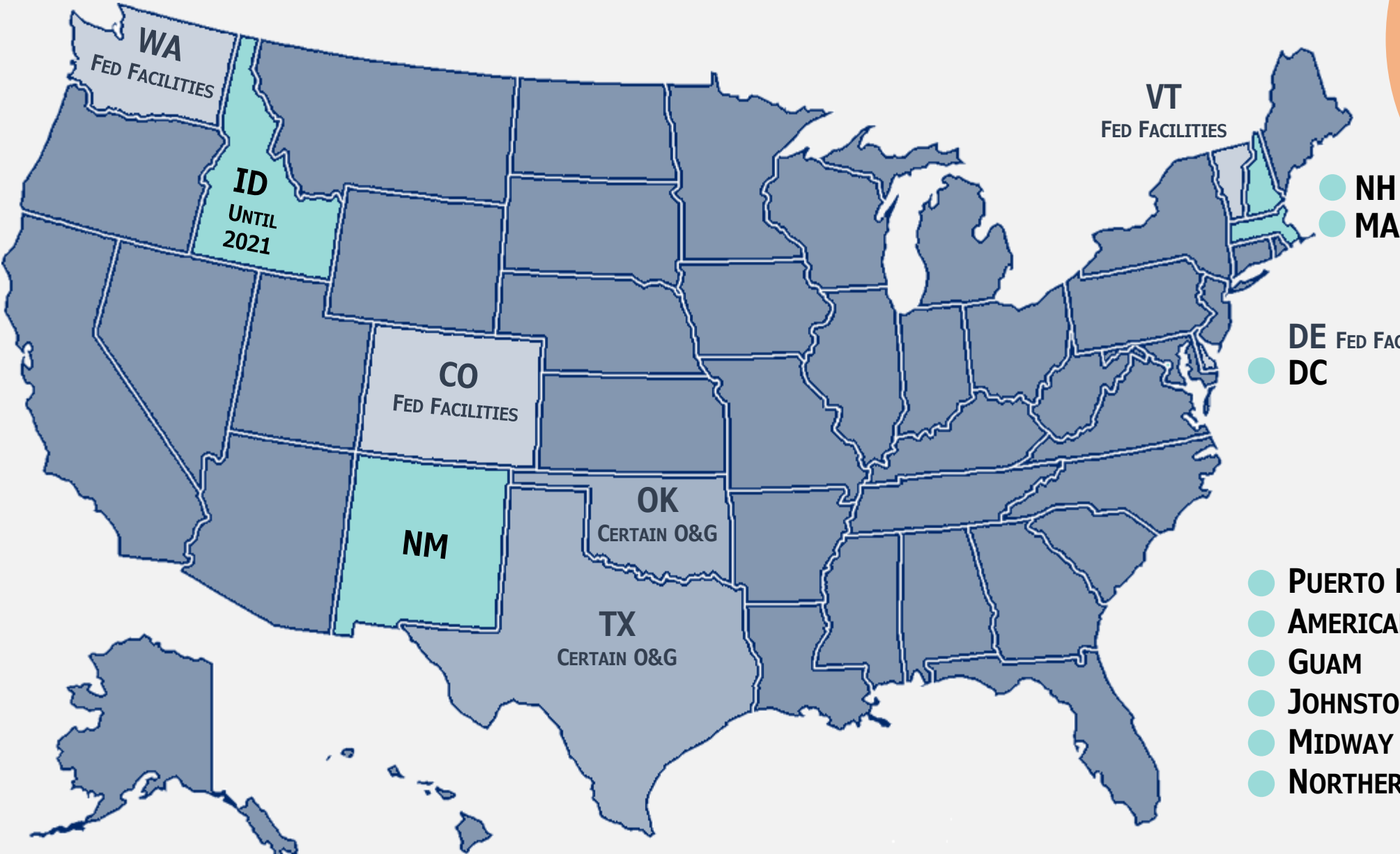
**IF ALL INDUSTRIAL  
MATERIALS AND ACTIVITIES  
ARE PROTECTED BY A STORM  
RESISTANT SHELTER TO  
PREVENT EXPOSURE TO RAIN,  
SNOW, SNOWMELT, AND/OR  
RUNOFF – **No MSGP NEEDED****

- ✓ **NO EXPOSURE CHECKLIST**
- ✓ **SUBMIT CERTIFICATION ONLINE**



\*Some exceptions apply; does not apply to category x.

# WHERE DOES EPA'S MSGP APPLY?



\*EPA will transfer permitting authority to Idaho for stormwater permits in 2021

**EXPIRING 2015 MSGP**

## KEY DATES

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Item	Date
Proposed 2020 MSGP published	<b>March 2, 2020</b>
Comment period ends	<b>May 31, 2020</b>
2015 MSGP Expiration – Administratively continued <ul style="list-style-type: none"><li>• Existing facilities remain covered</li><li>• New facilities cannot be covered</li></ul>	<b>June 4, 2020</b>
Final 2020 MSGP* *Based on settlement agreement deadline	<b>November 12, 2020</b>
Existing facilities - 2020 MSGP NOI	<b>By February 12, 2021</b> <i>(or 90 days after EPA issues a final permit)</i>
New facilities – 2020 MSGP NOI	<i>At least 30 days prior to commencing discharges</i>

# 2015 MSGP EXPIRATION

## EXISTING FACILITIES

- 2015 MSGP expires June 4, 2020
- Will be administratively continued
  - Per the Administrative Procedure Act and 40 CFR 122.6
  - Part 1.2.2: if you obtain authorization to discharge under the 2015 MSGP prior to the expiration date, any discharges authorized under that permit will automatically remain covered after the permit expiration date until the earliest of:
    1. You are authorized for coverage (i.e. submit a new NOI) when EPA issues a new permit
    2. You submit an NOT
    3. You get an individual permit



# 2015 MSGP EXPIRATION

## EXISTING FACILITIES

- Continue to comply with the permit (including inspections, monitoring, corrective actions, reporting)
- No other action from existing facilities is needed to remain covered
  - EPA will notify all existing permittees via the NPDES eReporting Tool (NeT-MSGP) system
  - Coverage status in NeT will automatically be changed to “admin. continued”
- Once the new MSGP is issued, existing facility will have 90 days to submit a new NOI

# 2015 MSGP EXPIRATION

## NEW FACILITIES

- New facilities (or those w/o prior permit coverage) will **not** be able to obtain permit coverage under the administratively continued permit
- Any NOI submitted prior to June 3, 2020 at 11:59PM ET will be processed
  - **Get your draft NOIs certified and submitted ASAP**
- New facilities can submit an “Intent to Operate in Accordance with the 2015 MSGP” (ITO) form to EPA via NeT
  - This is *not* the same as an NOI
  - This is *not* to get permit coverage
  - This lets EPA know your facility intends to comply with the administratively continued permit
  - ITO may be converted to an NOI when the new MSGP is issued

**COVID-19**

# COVID-19

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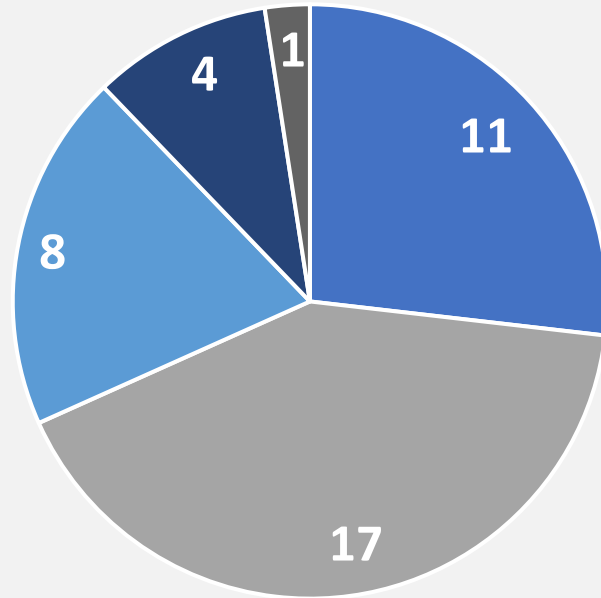
- On 3/26/20, EPA issued a Temporary Enforcement Policy related to COVID-19
  - Entities should make every effort to comply with their environmental compliance obligations
  - If compliance is not reasonably practicable, facilities with environmental compliance obligations should follow procedures in the memo
- On 3/31/20, EPA issued a Temporary Advisory for NPDES Reporting related to COVID-19
  - Where the permittees can report, they are expected to report the data they do have for the monitoring period
  - If data is missing because of the COVID-19 pandemic as set forth in the Temporary Policy, follow procedures in the advisory
- Website for COVID-19 Enforcement and Compliance Resources
  - <https://www.epa.gov/enforcement/covid-19-enforcement-and-compliance-resources>

# **PROPOSED CHANGES**

# EPA'S MSGP AND STATE MSGPs

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- States do not have to implement any new requirements that EPA finalizes in our MSGP, but may.
- Evaluation of 41 state MSGPs v. EPA MSGP



■ Identical/Substantially Similar

■ Similar (somewhat)

■ Substantially Different

■ Split - Similar (somewhat) & Identical/Substantially Similar

■ Split - Similar (somewhat) & Substantially Different



# **ELIGIBILITY & AUTHORIZATION**

# Expand CERCLA eligibility criterion to all Regions

PART  
1.1.7

## 2015 MSGP

Operators discharging to certain CERCLA sites in Region 10 are ineligible for coverage unless the Region reviews SWPPP and confirms that controls are sufficient to ensure that discharges meet WQS (and do not re-contaminate the site).

## PROPOSED 2020 MSGP

Propose the same eligibility criterion for operators discharging to certain CERCLA sites in all Regions.

## BOTTOM LINE

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Facilities discharging to certain CERCLA sites in all areas where MSGP applies would need to have the EPA Region review their SWPPP, instead of just in Region 10.

# New eligibility criterion related to coal tar sealcoat use

PART  
1.1.8

## 2015 MSGP

No equivalent requirement

## PROPOSED 2020 MSGP

Propose for comment an eligibility criterion for operators who, during their coverage under the MSGP, will use coal tar sealant to initially seal or to re-seal pavement and thereby discharge polycyclic aromatic hydrocarbons ("PAHs") in stormwater are not eligible for coverage under the MSGP and must either eliminate such discharge or apply for an individual permit.

## BOTTOM LINE

Facilities who need NPDES permit coverage and use coal tar sealcoat would be ineligible for MSGP coverage and would have to eliminate the discharge or apply for an individual permit.

# Extended **NOI review time** for facilities with a pending enforcement action

PART  
1.3.3

## 2015 MSGP

EPA holds all facilities' NOIs for 30 days to allow the Agency, Endangered Species Services, and the public an opportunity to review the facility's NOI (not a public comment period)

## PROPOSED 2020 MSGP

Request comment on whether EPA should hold a facility's NOI for 30 additional days to review the integrity of the SWPPP and controls for a facility not previously covered under the MSGP that also has a pending industrial stormwater related enforcement action.

## BOTTOM LINE

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EPA would review the NOI for new MSGP facilities with a pending enforcement action for 60 days instead of 30 days.

# Post a sign of permit coverage

## 2015 MSGP

No equivalent requirement in MSGP (but is in CGP and other NPDES permits)

## PROPOSED 2020 MSGP

Propose that facilities must post a sign of permit coverage at a safe, publicly accessible location in close proximity to the facility, including information that informs the public on how to contact EPA if stormwater pollution is observed in the discharge.

## BOTTOM LINE

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Facilities would need to post a sign that includes facility information and how to obtain their SWPPP.

# **CONTROL MEASURES**



# Consider implementing enhanced measures to mitigate asset and community impacts from stormwater discharge from major storm events

PART  
2.1.1.8

## 2015 MSGP

No equivalent requirement

## PROPOSED 2020 MSGP

Propose that facilities would be required to consider implementing enhanced measures such as structural improvements, enhanced pollution prevention measures, and other mitigation measures (permit gives examples) for facilities located in areas that could be impacted by stormwater discharges from major storm events that cause extreme flooding conditions.

## BOTTOM LINE

Facilities at risk for extreme flooding conditions would be required to consider other measures, e.g., elevate materials, temporarily reduce outdoor storage, delay deliveries.

**MONITORING**

# All facilities conduct benchmark monitoring for pH, TSS, and COD

PARTS  
4.2.1.1  
AND 8

## 2015 MSGP

Benchmark monitoring currently applies to 55% of MSGP facilities. The other 45% do not have any benchmark monitoring requirements.

## PROPOSED 2020 MSGP

Propose that all facilities have “universal benchmark monitoring” of pH, TSS, and COD on a quarterly basis throughout the permit term.

## BOTTOM LINE

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Facilities that did not have benchmark monitoring for pH, TSS, and COD previously would now need to monitor for those 3 “universal benchmark” parameters.

# Monitoring for 3 benchmark parameters **throughout the permit term**

PART  
4.2.1.2

## 2015 MSGP

Benchmark monitoring can be discontinued after 1 year if average does not exceed benchmark threshold.

## PROPOSED 2020 MSGP

Propose that facilities monitor and report for pH, TSS, and COD on a quarterly basis for the entire permit term to ensure facilities have current indicators of the effectiveness of their stormwater control measures throughout the permit term.

## BOTTOM LINE

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Facilities would be required to monitor for the 3 “universal benchmark” parameters of pH, TSS, and COD throughout the permit term.

# Increase **impaired waters monitoring** for 2 additional years but potentially narrow list of parameters

PART  
4.2.4.1

## 2015 MSGP

Operators discharging to impaired waters must monitor once/year for all pollutants causing impairments and can discontinue monitoring if not detected or not expected in the discharge.

## PROPOSED 2020 MSGP

Propose that operators discharging to impaired waters must monitor once/year for only pollutants that are both causing impairments AND associated with the industrial activity or are benchmarks. After 3 years of monitoring, if not detected, can discontinue for remainder of permit term.

## BOTTOM LINE

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Facilities would monitor for 3 years for pollutants associated with industrial activity or are benchmarks that are also causing impairments, instead of monitoring for 1 year for all pollutants causing impairments.

# Update some benchmark values, add flexibility and/or suspend others based on latest toxicity information

## 2015 MSGP

Existing benchmarks for Selenium, Arsenic, Aluminum, Cadmium, Magnesium, Iron, and Copper are based on outdated WQ criteria and/or toxicity data.

## PROPOSED 2020 MSGP

Propose to/request comment on:

- Revising selenium, arsenic, aluminum, cadmium benchmarks based on new FINAL EPA WQ criteria.
- Removing magnesium benchmark due to lack of documented toxicity.
- Suspending the iron benchmark due to lack of documented acute effects.
- Allowing facilities to conduct site-specific risk analysis for copper exceedances.

## BOTTOM LINE

The permit would include updated benchmark values based on revised WQ criteria, while other parameters would be suspended or have more flexibility.

# Add **benchmark monitoring** for some sectors based on new scientific information

## 2015 MSGP

### No benchmarks for:

- Sector I: Oil and Gas
- Sector P: Land Transportation
- Sector R: Ship & Boat Building

## PROPOSED 2020 MSGP

### Propose to add benchmarks:

- Sector I: O&G – ammonia, nickel, lead, nitrate-nitrogen, and zinc.
- Sector P: Land Transportation –lead and mercury.
- Sector R: Ship & Boat Building – chromium, copper, lead, nickel, and zinc.

## BOTTOM LINE

Approximately 530 facilities would now have these sector-specific benchmark monitoring requirements.

# **ADDITIONAL IMPLEMENTATION MEASURES (AIM)**



# Additional Implementation Measures (AIM) for benchmark exceedances

## 2015 MSGP

If a benchmark is exceeded, operators must review the control measures to see if modifications are necessary and continue monitoring until no exceedance.

## PROPOSED 2020 MSGP

**Tier 1:** Benchmark exceeded by certain low thresholds, review the control measures to see if modifications are necessary and continue monitoring until no exceedance.

**Tier 2:** Benchmark exceeded (or continually exceeded) by certain moderate thresholds, implement all feasible controls in EPA's MSGP sector-specific fact sheets and continue monitoring until no exceedance.

**Tier 3:** Benchmark exceeded (or continually exceeded) by certain high thresholds, install permanent structural source and treatment controls or consider infiltration and continue monitoring until no exceedance.

## BOTTOM LINE

Facilities would implement more robust controls for continued and/or significant exceedances. Exceptions for natural background sources and run-on are still available, in addition to two more for catastrophic event and no WQS exceedance.

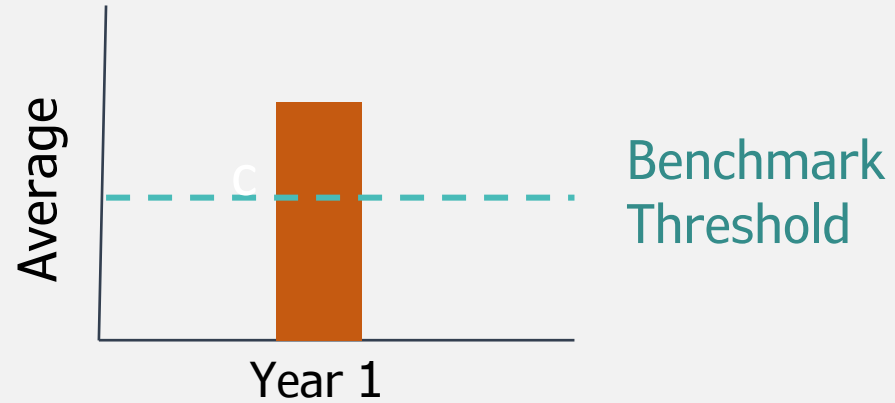
# Additional Implementation Measures (AIM) for benchmark exceedances

TIER	TRIGGERS	RESPONSES	DEADLINES	EXCEPTIONS
3	If benchmark is exceeded (or continually exceeded) by certain <b>high thresholds</b>	<ul style="list-style-type: none"> <li>✓ Install permanent controls</li> <li>✓ Option to infiltrate</li> <li>✓ Continue monitoring</li> </ul>	30 days; if infeasible, 90 days	<ul style="list-style-type: none"> <li>* Natural background sources</li> <li>* Run-on</li> <li>* Discharge does not result in exceedance of WQS</li> </ul>
2	Benchmark is exceeded (or continually exceeded) by certain <b>moderate thresholds</b>	<ul style="list-style-type: none"> <li>✓ Implement all feasible SCMs in EPA fact sheets (Appendix Q)</li> <li>✓ Continue monitoring</li> </ul>	14 days; if infeasible, 45 days	<ul style="list-style-type: none"> <li>* Natural background sources</li> <li>* Run-on</li> <li>* Single event was an aberration</li> </ul>
1	Benchmark is exceeded by certain <b>low thresholds</b>	<ul style="list-style-type: none"> <li>✓ Review SCMs</li> <li>✓ Implement additional SCMs</li> <li>✓ Continue monitoring</li> </ul>	14 days; if infeasible, 45 days	<ul style="list-style-type: none"> <li>* Natural background sources</li> <li>* Run-on</li> </ul>

# AIM TIER 1 TRIGGERS

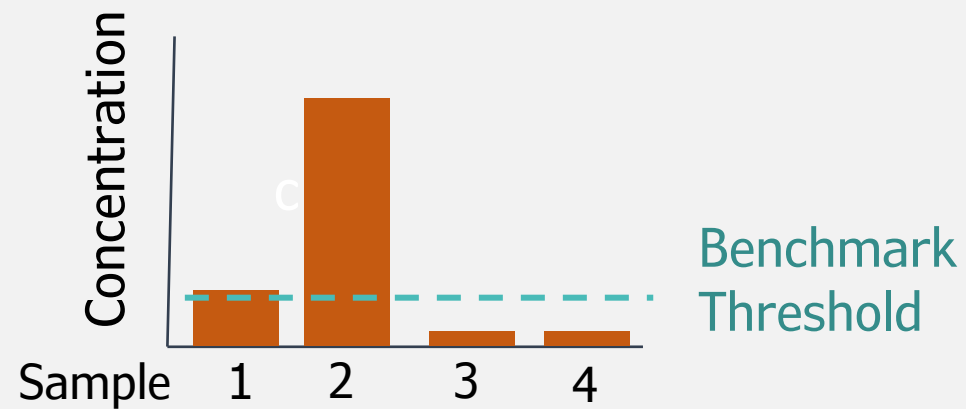
**A**

1 annual average over the benchmark



**B**

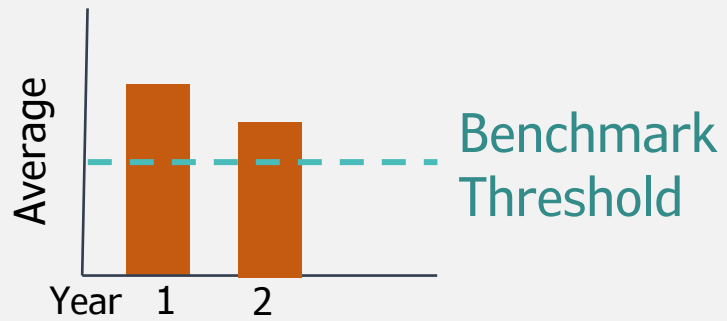
1 sample over 4x the benchmark



# AIM TIER 2 TRIGGERS

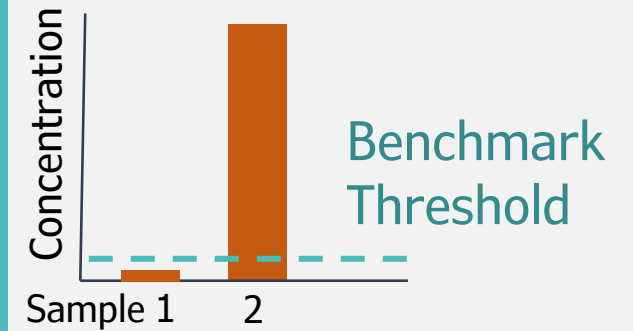
**A**

2<sup>nd</sup> annual average over the benchmark



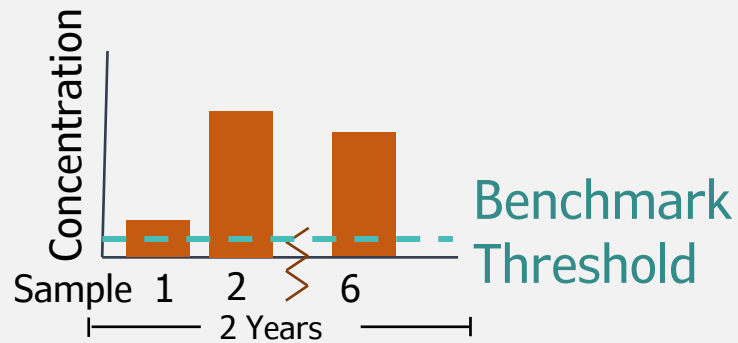
**C**

1 sample over 8x the benchmark



**B**

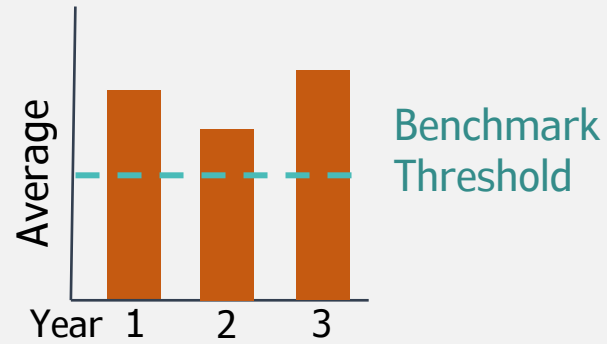
2<sup>nd</sup> sample in 2-years over 4x the benchmark



# AIM TIER 3 TRIGGERS

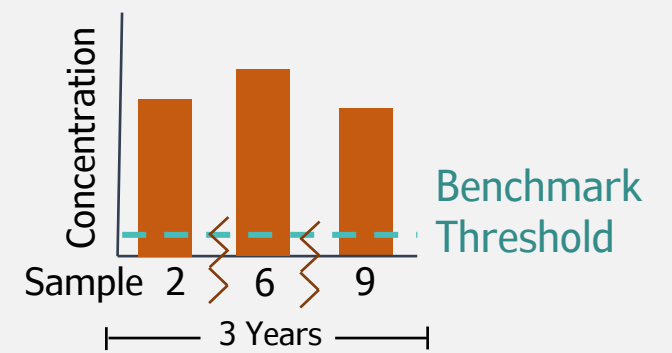
**A**

3<sup>rd</sup> annual average over the benchmark



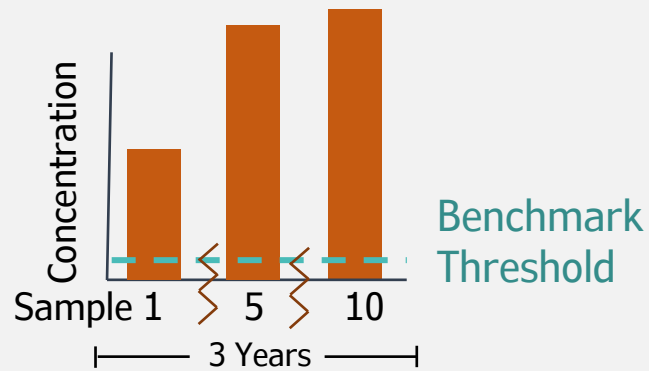
**C**

3<sup>rd</sup> sample in 3-years over 4x the benchmark



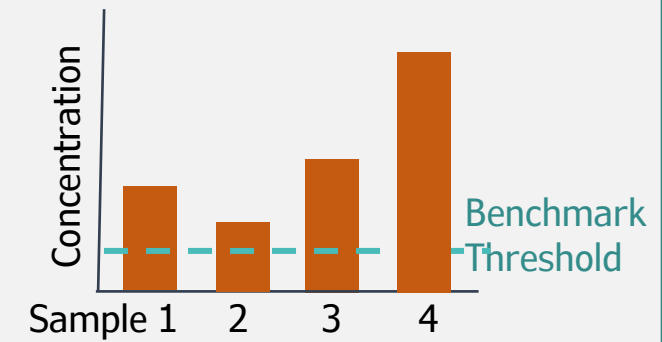
**B**

2 samples in 3-years each over 8x the benchmark



**D**

4 consecutive samples over benchmark & the average more than 2x benchmark





## OTHER REQUESTS FOR COMMENT

1. Eligibility related to use of cationic chemicals
2. Change NOI paper form
3. New acronym for the No Exposure Certification (NOE to NEC)
4. Alternative approaches to benchmark monitoring
5. Inspection-only option in lieu of benchmark monitoring
6. Information about polycyclic aromatic hydrocarbons (PAHs)
7. Modifying the method for determining natural background pollutant contributions
8. Clarifications to Sector G monitoring requirements

## REQUEST FOR COMMENT #11:

### INSPECTION-ONLY OPTION IN LIEU OF BENCHMARK MONITORING

#### PROPOSED 2020 MSGP

- “light manufacturing” facilities
- 2 inspections per permit term
- Inspections conducted by a PE



# ESTIMATED INCREMENTAL COSTS

$$\text{MSGP}_{2020} - \text{MSGP}_{2015} = \Delta\text{MSGP}$$

$\Delta\text{MSGP} = \$2,363$  PER FACILITY OVER THE 5-YEAR PERMIT TERM

## KEY COST ASSUMPTIONS:

- Many controls already implemented
- Cost calculation input factors
- Requirements are not uniform across facilities
- Discharge points and pollutants varies
- MSGP does not collect data on facilities that are small businesses
- Others



# WHERE CAN I FIND THE PERMIT AND COMMENT?

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**90-DAY  
COMMENT  
PERIOD**

<https://www.regulations.gov/docket?D=EPA-HQ-OW-2019-0372>

**SUBMIT  
COMMENTS  
THROUGH  
THE DOCKET**

**Docket ID # EPA-HQ-OW-2019-0372**  
**Comments due: May 31, 2020**

**EPA's  
INDUSTRIAL  
SW  
WEBPAGE**

[www.epa.gov/npdes/proposed-2020-msgp-public-comment](http://www.epa.gov/npdes/proposed-2020-msgp-public-comment)

A close-up, high-speed photograph of water splashing onto a dark, textured surface, creating numerous small droplets and ripples. The background is blurred, emphasizing the motion and texture of the water.

**THANK YOU!**

**EMILY HALTER**

**[HALTER.EMILY@EPA.GOV](mailto:HALTER.EMILY@EPA.GOV)**

**202-564-3324**

**INDUSTRIAL STORMWATER &  
CONSTRUCTION STORMWATER**

# **APPENDIX SLIDES**

# 2015 MSGP LITIGATION

**2015  
MSGP  
ISSUED**

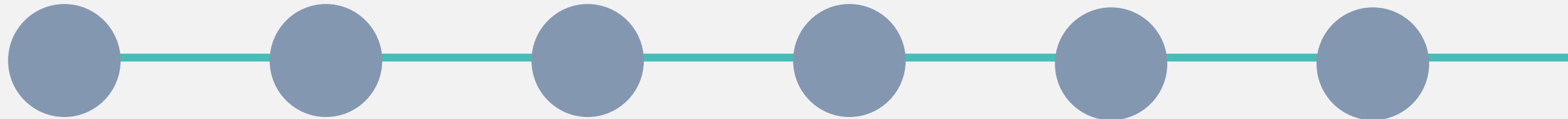
**ENVIRONMENTAL  
NGOS CHALLENGE  
THE PERMIT**

**TWO INDUSTRY  
GROUPS  
INTERVENE**

**ACTION  
STAYED**

**SETTLEMENT  
NEGOTIATIONS**

**2016  
SETTLEMENT  
AGREEMENT  
SIGNED**





# SETTLEMENT AGREEMENT

## KEY TERM

1) Fund NRC Study and consider recommendations

## PERMIT AUTHORIZATION TERMS

- 2) Expand CERCLA eligibility criterion to all Regions
- 3) Add new eligibility criterion related to coal tar sealcoat use
- 4) Extend NOI review time for facilities with a pending enforcement action

## MONITORING TERMS

- 5) Require Additional Implementation Measures (AIM) for benchmark exceedances
- 6) Increase impaired waters monitoring to 3 years but narrow list of parameters

## OTHER TERMS

- 7) Compare EPA's MSGP effluent limits with state MSGPs
- 8) Update sector-specific fact sheets with available control measures

# 2019 NRC STUDY

**SETTLEMENT  
AGREEMENT**

Fund NRC Study

**NRC STUDY**

["Improving the  
EPA Multi-Sector  
General Permit  
for Industrial  
Stormwater  
Discharges"  
\(2019\)](#)

**RECOMMENDATIONS**

- Monitoring
- Data Collection
- Retention

**PROPOSED  
2020 MSGP**

# 2019 NRC STUDY

## 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

## 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)



## 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)