Permit

# Proposed Multi-Sector General Permit (MSGP) for Stormwater Discharges associated with Industrial Activity

Public Meeting
February 6, 2006
Albuquerque, NM

## Today's Meeting

- Today's meeting is an opportunity to ask EPA questions and receive clarification about facets of the proposed MSGP.
- EPA does not guarantee that verbal comments received at this meeting will be directly addressed in written responses to comments. To ensure that EPA responds to your concerns, please provide them in writing, either today or via mail or e-docket.

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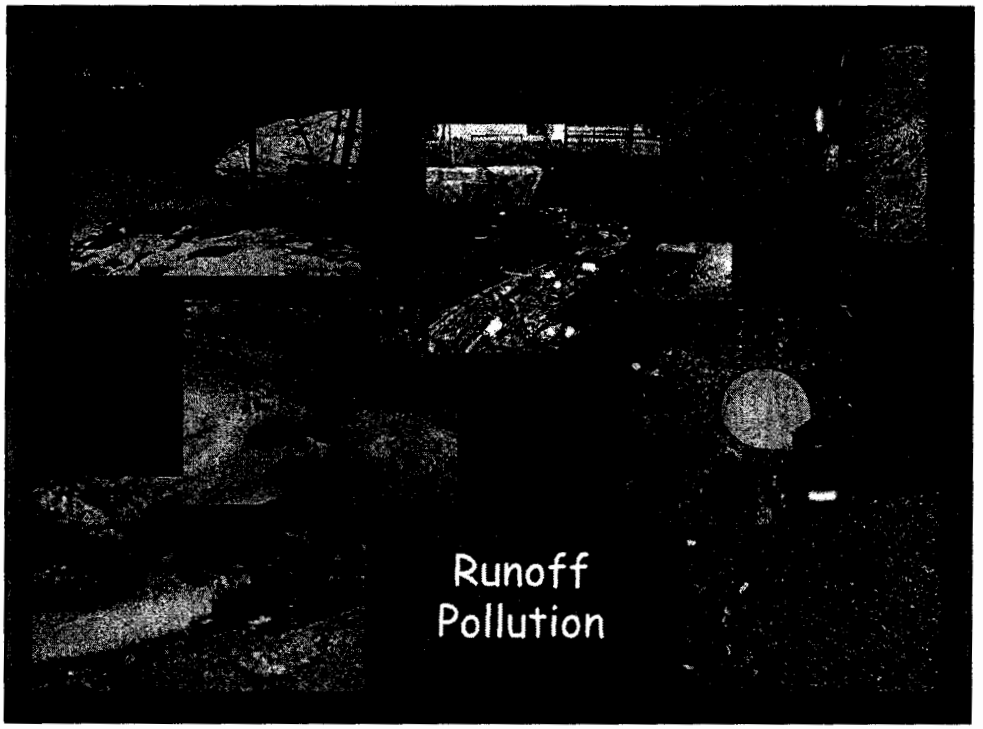
Runoff
Pollution

Pollutants: metals, oils & greases,
solvents, nutrients, organics, etc.

## Typical Pollutant Loadings from Runoff by Urban Land Use (lbs/acre-yr)

| Land Use | TSS | Total P | TKN | $NH_3$-N | $NO_2$+$NO_3$ -N | BOD | COD | Pb | Zn | Cu |
|---|---|---|---|---|---|---|---|---|---|---|
| Commercial | 1000 | 1.5 | 6.7 | 1.9 | 3.1 | 62 | 420 | 2.7 | 2.1 | 0.4 |
| Parking Lot | 400 | 0.7 | 5.1 | 2 | 2.9 | 47 | 270 | 0.8 | 0.8 | .04 |
| High Density Residential | 420 | 1 | 4.2 | 0.8 | 2 | 27 | 170 | 0.8 | 0.7 | .03 |
| Med Density Residential | 190 | 0.5 | 2.5 | 0.5 | 1.4 | 13 | 72 | 0.2 | 0.2 | .14 |
| Low Density Residential | 10 | 0.04 | .03 | 0.02 | 0.1 | NA | NA | .01 | .04 | .01 |
| Freeway | 880 | 0.9 | 7.9 | 1.5 | 4.2 | NA | NA | 4.5 | 2.1 | .37 |
| Industrial | 860 | 1.3 | 3.8 | 0.2 | 1.3 | NA | NA | 2.4 | 7.3 | 0.5 |
| Park | 3 | 0.03 | 1.5 | NA | 0.3 | NA | 2 | 0 | NA | NA |
| Construction | 6000 | 80 | NA | NA | NA | NA | NA | NA | NA | NA |

NURP Study: Homer et al. 1994

## Statutory History

- Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA): phased approach to regulate stormwater discharges.
- Final Phase I regulation November 16, 1990, establishing permit application requirements for "stormwater discharges associated with industrial activity".
- No Exposure Exemption added with Phase II.

## Proposed MSGP 2006 Outline

- Fact Sheet
- Permit
  - Part 1: Coverage Under This Permit
  - Part 2: Stormwater Pollution Prevention Plan
  - Part 3: Compliance Evaluations, Monitoring, Corrective Action, Reporting and Recordkeeping
  - Part 4: Sector-Specific Requirements
  - Part 5: State and Tribal Specific Requirements (to be included with final MSGP)
- Appendices

## Proposed MSGP 2006 Outline

- Appendix A - Definitions, Abbreviations & Acronyms
- Appendix B - Standard Permit Conditions
- Appendix C - Areas Covered
- Appendix D - Activities Covered
- Appendix E - ESA Procedures
- Appendix F - NHPA Procedures
- Appendix G - Information Required for NOI
- Appendix H - Information Required for NOT

# Geographic Coverage

EPA can only provide permit coverage for classes of discharges that are outside the scope of a state's NPDES program authorization

- 5 states: MA, ID, AK, NH, NM (AZ*)
- Indian lands
- U.S. territories (except VI) and D.C.
- Federal facilities in 4 states (CO, DE, VT, WA)

## MSGP: 29 Sectors of Industrial Activity

**Sector A** - Timber Products

**Sector B** - Paper and Allied Products Manufacturing

**Sector C** - Chemical and Allied Products Manufacturing

**Sector D** - Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers

**Sector E** - Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing

**Sector F** - Primary Metals

**Sector G** - Metal Mining (Ore Mining and Dressing)

**Sector H** - Coal Mines and Coal Mining-Related Facilities

**Sector I** - Oil and Gas Extraction and Refining

**Sector J** - Mineral Mining and Dressing

**Sector K** - Hazardous Waste Treatment Storage or Disposal

**Sector L** - Landfills and Land Application Sites

**Sector M** - Automobile Salvage Yards

**Sector N** - Scrap Recycling Facilities

**Sector O** - Steam Electric Generating Facilities

**Sector P** - Land Transportation

**Sector Q** - Water Transportation

**Sector R** - Ship and Boat Building or Repairing Yards

**Sector S** - Air Transportation Facilities

**Sector T** - Treatment Works

**Sector U** - Food and Kindred Products

**Sector V** - Textile Mills, Apparel, and other Fabric Products Manufacturing

**Sector W** - Furniture and Fixtures

**Sector X** - Printing and Publishing

**Sector Y** - Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

**Sector Z** - Leather Tanning and Finishing

**Sector AA** - Fabricated Metal Products

**Sector AB** - Transportation Equipment, Industrial or Commercial Machinery

**Sector AC** - Electronic, Electrical, Photographic and Optical Goods

**Sector AD** - Facilities Not Covered Under Other Sectors and Designated by the Director

## Notable Changes from MSGP 2000

- 30 day waiting period for authorization
- Provisions related to Endangered Species Act and National Historic Preservation Act
- Monitoring
- Some benchmarks & benchmark values
- Framework for meeting water quality standards
- Discharges to impaired waters requirements
- Sector-specific SWPPP requirements
- Response to exceedances
- Reporting

## Discharge Authorization Timeframe

There is a 30-day waiting period for facilities that have correctly completed NOI applications. The period begins when EPA posts the NOI on the e-NOI website. Authorization to discharge is granted at the end of the 30 day period unless EPA has substantive reason to delay or deny authorization.

Purposes:

1) Opportunity for Services to review proposed discharge, and
2) Opportunity for public to view NOI.

## Endangered Species Act

- Additional eligibility criterion, D, was added: coordination between operator & Services concluded; Services have provided written statement that adverse effects not likely; any conditional provisions included in SWPPP.

## National Historic Preservation Act

- A fourth eligibility criterion, D, was added: operator contacted state or tribal Historic Preservation Officer with information of the potential to have an effect on historic properties, and did not receive a response within 30 days.

## Monitoring

- Inactive and unstaffed sites may exercise visual & benchmark monitoring waivers as long as there are no industrial materials or activities exposed.
- Monitoring commences immediately in year 1; additional monitoring, if necessary, in year 2.
- Follow-up monitoring requirements have been added when results indicate a discharge exceeds a numeric effluent limit, or causes and contributes to an exceedance of a water quality standard, to verify that BMPs have been modified to protect water quality.

## Sector Specific Monitoring

- All sectors have Total Suspended Solids (TSS) as a benchmark monitoring requirement.
- 12 sectors did not have any monitoring requirements under the MSGP 2000, but now have the TSS monitoring requirement.

## Sector Specific Monitoring

Added new benchmark monitoring requirements for the following sectors:

- Sector A (wood preserving subsector): chromium, phenols
- Sector I (oil and gas extraction and refining): ammonia, lead, nickel, zinc, nitrate-nitrite nitrogen
- Sector Y (rubber manufacturing subsectors): lead
- Sector AC (electronic and electrical equipment and components except computers subsector): copper, lead

## Benchmark Values

The following benchmark values were changed, largely to reflect updated federal water quality criteria:

- Antimony
- Arsenic
- Cadmium
- Chromium
- Copper
- Cyanide
- Phenols
- Selenium
- Silver
- Turbidity

## Modified & New Benchmark Values

| Pollutant | 2000 MSGP | 2006 MSGP | Sector(s) |
|---|---|---|---|
| Antimony | 0.636 mg/L | 0.64 mg/L | G |
| Arsenic | 0.16854 mg/L | 0.15 mg/L | A, G, K |
| Cadmium | 0.0159 mg/L | 0.022 mg/L | G, K |
| Chromium | -- | 1.8 mg/L | A |
| Copper | 0.0636 mg/L | 0.014 mg/L | A, F, G |
| Cyanide | 0.0636 mg/L | 0.022 mg/L | K |
| Phenols | -- | 0.016 mg/L | A |
| Selenium | 0.2385 mg/L | 0.005 mg/L | G, K |
| Silver | 0.0318 mg/L | 0.0038 mg/L | G, K |
| Turbidity | 5 NTU above background | 50 NTU | G |

## Monitoring Cost Analysis

- EPA found that, on average, changes would result in an increase of 60 dollars or less per year for permitted facilities.
- Increases in costs are expected to occur in sectors that have additional parameters to monitor, primarily Total Suspended Solids.
- Decreases in costs will be realized from the 2000 permit term because of the decrease in costs of most laboratory analytical techniques.

## Framework for Meeting Water Quality Standards

- Meeting water quality standards is now articulated as a permit requirement rather than an eligibility requirement.

## Impaired Waters Requirements - TMDL -

- Must develop and implement SWPPP to meet applicable WLA(s). Must monitor annually* for pollutant of concern. Monitoring may be waived after one year if WLA expressed <u>only</u> in terms of BMPs, pollutant of concern is not detected in the discharge, and the SWPPP documents that required BMPs have been implemented.

* Unless otherwise specified by state or tribe

## Impaired Waters Requirements - No or Pre-TMDL -

- Must comply with any state- or tribe-specified requirements. Must monitor discharge annually* for pollutant of concern. Monitoring may be waived after 1 year if pollutant is not detected in the discharge & the SWPPP documents that the pollutant is not present at the facility.

* Unless otherwise specified by state or tribe

## Response to Benchmark Exceedances

- Exceedance: average of 4 sample values.
- Review SWPPP (14 days) to determine adequacy.
- If operator determines SWPPP is adequate, must document, and reduce monitoring frequency to once annually.
- If operator determines SWPPP is inadequate must initiate corrective action and continue monitoring for another 4 quarters.

## Response to Effluent Limitation, WLA or WQS Exceedances

- Exceedance: any single sample value.
- Modify SWPPP (14 days) and implement new or modified BMPs (prior to next precipitation event or 60 days).
- Within 30 days of implementing improved BMPs conduct follow-up monitoring; report data to EPA.
- If monitoring indicates a continued exceedance, submit Exceedance Report to EPA within 30 days.
- As long as limit or standard exceeded monitoring must continue no less than quarterly.

## Reporting

- Monitoring data must be reported within 30 days of receiving lab reports.
- When follow-up monitoring reveals continued exceedance of water quality standard, effluent limit or wasteload allocation, Exceedance Report must be submitted to EPA within 30 days of receiving lab reports.
- Unauthorized release or discharge: verbally within 24 hours and in writing within 5 days if threat to human health; otherwise in writing within 30 days.

## Electronic Application and Reporting
(www.epa.gov/npdes/eNOI)

- Applications or "Notices of Intent" will again be filed electronically via EPA's eNOI system.
- All applicants will receive an electronic summary of their monitoring requirements.
- Online filing of monitoring data will also be available via the eNOI system.
- Electronic filers will receive reminder emails and instructions if benchmarks or limits are exceeded.
- Using the electronic system will be much faster and easier!

## Sector Specific SWPPP Requirements

- Made inspection frequency (monthly) consistent across sectors F (primary metals), M (auto salvage), and U (food & kindred products).
- Added information on the proper handling of mercury switches in sector M (auto salvage).
- Suggested that mercury spill kits be kept on site in sector N (scrap recycling).

## Finalizing MSGP 2006

- Public comment period is being extended 30 days to February 16, 2006.
- EPA will consider all comments, and prepare responses to comments that will accompany the final permit.
- The final permit will incorporate necessary changes, based on public comments received.

## For More Information

- http://www.epa.gov/npdes
- http://www.epa.gov/region6/sws

# For More Information

- To obtain copies of permit, fact sheet and any documents in the docket follow instructions for the Federal Register notice at:
  www.epa.gov/NPDES/stormwater/MSGP
  Docket ID is: OW-2005-0007

- For questions on the public comment process:
  Greg Schaner, schaner.greg@epa.gov
  202.564.0721

Please Note:

The electronic docket system that supports the proposed NPDES Stormwater Multi-Sector General Permit for Industrial Activities (MSGP2006) has been moved to a new site. The old site edocket.gov has been moved to www.regulations.gov

In order to find the docket for the MSGP-2006, you may use either the general or advanced search option. If you use the keyword search feature, you must select the "Any Word" option.

Please scroll down to see the federal register notice below

of Air Quality Planning and Standards (Mail Code C 439–04), 109 T.W. Alexander Drive, Research Triangle Park, NC 27711, or e-mail at: *whitlow.jeff@epa.gov*. Additional Information about the CAAAC and its subcommittees can be found on the CAAAC Web site: *http://www.epa.gov/air/caaac*.

*Providing Written Comments at This Meeting:* It is the policy of the subcommittee to accept written public comments of any length, and to accommodate oral public comments whenever possible. Due to the brief nature of this meeting, the subcommittee will only accept written comments. The subcommittee expects that statements submitted for this meeting will not be repetitive of previously-submitted oral or written statements. Although the subcommittee accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received by Mr. Whitlow no later than noon Eastern Time five business days prior to the meeting so that the comments may be made available to the subcommittee members for their consideration. Comments should be supplied to Mr. Whitlow (preferably via e-mail) at the address/contact information noted above, as follows: one hard copy with original signature or one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files).

Dated: November 22, 2005.

**Gregory A. Green,**

*Deputy Director, Office of Air Quality Planning and Standards.*

[FR Doc. E5–6723 Filed 11–30–05; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL—8004–6]**

### Science Advisory Board Staff Office Cancellation of Public Teleconference of the Science Advisory Board Arsenic Review Panel

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA), Science Advisory Board (SAB) Staff Office is canceling a public teleconference meeting of the SAB's Arsenic Review Panel announced earlier (70 FR 69340, November 15, 2005).

**DATES:** December 5, 2005. The public conference call from 2 p.m. to 4:30 p.m. Eastern Time has been cancelled. A future notice in the **Federal Register** will announce the new date and time for the Arsenic Review Panel's next meeting.

Dated: November 29, 2005.

**Anthony F. Maciorowski,**

*Associate Director for Science, EPA Science Advisory Board Staff Office.*

[FR Doc. 05–23558 Filed 11–30–05; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8004–2]**

### Calhoun Park Area Superfund Site; Charleston, Charleston County, SC; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for payment of all past cost, as well as future costs related to the Calhoun Park Area Site ("Site") located in Charleston County, Charleston, South Carolina. EPA will consider public comments on the proposed settlement until January 3, 2006. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Superfund Enforcement and Information Management Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303. 404/562–8887. *Batchelor.Paula@EPA.Gov.*

Written or e-mail comments may be submitted to Ms. Batchelor at the above address within thirty days of the date of publication.

Dated: November 10, 2005.

**Rosalind H. Brown,**

*Chief, Superfund Enforcement and Information Management Branch, Waste Management Division.*

[FR Doc. E5–6722 Filed 11–30–05; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8004–5]**

### Proposed National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Industrial Activities

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability for comment.

**SUMMARY:** EPA Regions 1, 2, 3, 5, 6, 9, and 10 today are proposing EPA's NPDES general permit for stormwater discharges from industrial activity, also referred to as the Multi-Sector General Permit (MSGP). Today's proposed permit will replace the existing permit covering industrial sites in EPA Regions 1, 2, 3, 5, 6, 8, 9 and 10 that expired on October 30, 2005. Today's proposed permit is similar to the existing permit and will authorize the discharge of stormwater associated with industrial activities in accordance with the terms and conditions described therein. EPA seeks comment on the proposed permit and on the accompanying fact sheet.

**DATES:** Comments on the proposed general permit must be postmarked by January 16, 2006.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Send written comments to: Follow the detailed instructions as provided in Section I.B.

**FOR FURTHER INFORMATION CONTACT:** For further information on the proposed NPDES general permit, contact the appropriate EPA Regional Office listed in Section I.F, or contact Jenny Molloy, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202–564–1939 or e-mail: *molloy.jennifer@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. How Can I Get Copies of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2005–0007. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. Although all documents in the docket are listed in an index, some information is not publicly available,

i.e, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this ≤Federal Register document electronically through the EPA Internet under the "Federal Register" listings at *http://www.epa.gov/fedrgstr/.*

Electronic versions of the proposed permit and fact sheet are available at EPA's stormwater Web site *http://www.epa.gov/npdes/stormwater.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search", then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.A.1.

*Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark all of the information that you claim to be CBI. For CBI information on computer discs mailed to EPA, mark the surface of the disc as CBI. Also identify electronically the specific information contained in the disc or that you claim is CBI. In addition to one complete version of the specific information claimed as CBI, you must submit a copy that does not contain the information claimed as CBI for inclusion in the public document. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

*B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. To ensure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible, the paragraph(s) or sections in the fact sheet or permit to which each comment refers. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late". EPA is not required to consider these late comments.

EPA seeks comment on the proposed permit and on the accompanying fact sheet.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. Once in the system, select "search", and then key in Docket ID No. OW–2005–0007. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *ow-docket@epa.gov,* Attention Docket ID No. OW–2005–0007. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM that you mail to the mailing address identified in Section I.B.2. These electronic submissions will be accepted in Microsoft Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send the original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW–2005–0007.

3. *By Hand Delivery or Courier.* Deliver your comments to: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. OW–2005–0007. Such

deliveries are only accepted during the Docket's normal hours of operation as identified in Section I.A.1.

*C. Public Hearings*

EPA has not scheduled any public hearings to receive public comment concerning the proposed permit. All persons will continue to have the right to provide written comments at any time during the public comment period. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the proposed permit. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period. Requests for a public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in a public hearing on the proposed permit. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the proposed permit at the public hearing.

*D. Public Meetings*

EPA will hold an informal public meeting at EPA headquarters in Washington, DC, December 20, 2005. The public meeting will include a presentation on the draft permit and a question and answer session. In addition, some EPA Regional offices may schedule public meetings in their areas. Due to an informal public meeting's ability to accommodate group discussion and question and answer sessions, public meetings have been used for many stormwater general permits and appear to be more valuable than formalized public hearings in helping the public understand a draft stormwater permit and identify the issues of concern. Written, but not oral, comments for the official permit record will be accepted at the public meetings. Comments generated from what was learned at a public meeting (or discussion with someone who did attend) can be submitted any time up to the end of the comment period. More information on these meetings will be available on the Internet at *http://www.epa.gov/npdes/stormwater* and on the various EPA Regional Web sites including any additional dates and locations if scheduled.

Due to limited seating, those wishing to attend EPA's public meeting are asked to please send an e-mail message containing their name, telephone number and organization to Lance Wills at *wills.lance@epa.gov*. An e-mail message is not required, however. Anyone wishing to may attend. Directions to the meeting site will be provided upon receipt of your e-mail.

*E. Finalizing the Permit*

After the close of the public comment period, EPA will issue a final permit decision. This decision will not be made until after all public comments have been considered and appropriate changes made to the permit. Responses to Comments will be included as part of the final permit decision.

Since this permit was not reissued or replaced prior to expiration of the MSGP 2000, MSGP is administratively continued in accordance with the Administrative Procedure Act, and remains in force and effect. Any facility with permit coverage prior to the October 30, 2005 expiration date, automatically remains covered by this permit until the earliest of:

- Reissuance or replacement of the permit, at which time the facility must submit an NOI requesting authorization to discharge under the new permit and comply with the requirements of the new permit to maintain authorization to discharge, or:
- The facility submits a Notice of Termination, or;
- Issuance or denial of an individual permit for the facility discharges, or;
- A formal permit decision by EPA not to reissue this general permit, at which time the facility must seek coverage under an alternative general permit or an individual permit.

*F. Who Are the EPA Regional Contacts for This Proposed Permit?*

For EPA Region 1, contact Thelma Murphy at tel.: (617) 918–1615 or e-mail at *murphy.thelma@epa.gov*.

For EPA Region 2, contact Stephen Venezia at tel.: (212) 637–3856 or e-mail at *venezia.stephen@epa.gov* or for Puerto Rico, Sergio Bosques at tel.: (787) 977–5838 or e-mail at *bosques.sergio@epa.gov*.

For EPA Region 3, contact Paula Estornell at tel.: (215) 814–5632 or e-mail at *estornell.paula@epa.gov*.

For EPA Region 5, contact Brian Bell at tel.: (312) 886–0981 or e-mail at *bell.brianc@epa.gov*.

For EPA Region 6, contact Brent Larsen at tel.: (214) 665–7523 or e-mail at: *larsen.brent@epa.gov*.

For EPA Region 9, contact Eugene Bromley at tel.: (415) 972–3510 or e-mail at *bromley.eugene@epa.gov*.

For EPA Region 10, contact Misha Vakoc at tel.: (206) 553–6650 or e-mail at *vakoc.misha@epa.gov*.

## II. Background

*A. Statutory and Regulatory History*

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA), which directed the Environmental Protection Agency (EPA) to develop a phased approach to regulate stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on the first phase on this program on November 16, 1990, establishing permit application requirements for "stormwater discharges associated with industrial activity". See 55 FR 48063. EPA defined the term "stormwater discharge associated with industrial activity" in a comprehensive manner to cover a wide variety of facilities. See 40 CFR 122.26(b)(14).

## III. Scope and Applicability of the 2006 Multi-Sector General Permit

The 2000 Multi-Sector General Permit expired at midnight, October 30, 2005.

*A. Geographic Coverage*

EPA can only provide permit coverage for classes of discharges that are outside the scope of a state's NPDES program authorization. EPA notes that unlike the 2000 MSGP, facilities located in Regions 4 and 8 will not be covered by this permit. The geographic coverage of today's proposed permit is listed in Appendix C of the proposed 2006 MSGP.

*B. Categories of Facilities Covered*

Today's proposed MSGP regulates stormwater discharges from industrial facilities in 29 categories, shown in Table III–1, in the five states and other areas where EPA remains the permitting authority. See Appendix D of the proposed MSGP 2006 and the MSGP fact sheet for more complete information.

Sector A—Timber Products
Sector B—Paper and Allied Products Manufacturing
Sector C—Chemical and Allied Products Manufacturing
Sector D—Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers
Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
Sector F—Primary Metals
Sector G—Metal Mining (Ore Mining and Dressing)
Sector H—Coal Mines and Coal Mining-Related Facilities
Sector I—Oil and Gas Extraction and Refining

Sector J—Mineral Mining and Dressing
Sector K—Hazardous Waste Treatment Storage or Disposal
Sector L—Landfills and Land Application Sites
Sector M—Automobile Salvage Yards
Sector N—Scrap Recycling Facilities
Sector O—Steam Electric Generating Facilities
Sector P—Land Transportation
Sector Q—Water Transportation
Sector R—Ship and Boat Building or Repairing Yards
Sector S—Air Transportation Facilities
Sector T—Treatment Works
Sector U—Food and Kindred Products
Sector V—Textile Mills, Apparel, and other Fabric Products Manufacturing
Sector W—Furniture and Fixtures
Sector X—Printing and Publishing
Sector Y—Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
Sector Z—Leather Tanning and Finishing
Sector AA—Fabricated Metal Products
Sector AB—Transportation Equipment, Industrial or Commercial Machinery
Sector AC—Electronic, Electrical, Photographic and Optical Goods
Sector AD—Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director

*B. Summary of Significant Changes From 2000 Multi-Sector General Permit*

This permit replaces the previous Multi-Sector General Permit that was issued for a five-year term on October 30, 2000 (65 FR 64746). The MSGP 2000 was subsequently corrected on January 9, 2001 (66 FR 1675–1678) and March 23, 2001 (66 FR 16233–16237). On April 16, 2001 (66 FR 19483–19485) EPA re-issued the permit, as corrected, for facilities in certain areas of Regions 8 and 10.

The proposed permit is structured in five sections: general requirements that apply to all facilities (e.g., eligibility of discharges, storm water pollution prevention plan (SWPPP) requirements, and monitoring requirements), industry sector-specific conditions, and specific requirements applicable to individual States or Tribes. Additionally, the appendices provide information on Endangered Species Act and National Historic Properties Act procedures, the Notice of Intent (NOI), the Notice of Termination (NOT), and the Conditional No Exposure Exclusion.

The organization and numbering of today's draft MSGP has been revised from the 2000 MSGP to more clearly present permittee responsibilities. EPA made changes to the discharge authorization time frame, training, monitoring, reporting, recordkeeping, inspections, and some sector-specific provisions to ensure that receiving waters will be adequately protected. The significant changes are summarized below. These changes are discussed in more detail in the MSGP fact sheet.

**Discharge Authorization Time Frame**

EPA has instituted a 30-day public comment period for facilities that have correctly completed NOI applications. The period begins after EPA posts the facility's NOI on the eNOI Web site. Authorization to discharge is granted at the end of the 30 day period unless EPA has substantive reason to delay or deny authorization.

**Monitoring and Reporting**

Several changes to MSGP-reporting and monitoring requirements are listed below.

- Inactive and unstaffed sites may exercise a Benchmark Monitoring waiver as long as there are no industrial materials or activities exposed.
- A facility covered under MSGP 2006 must monitor quarterly during year 1 for benchmarks. Facilities with an average of 4 monitoring events that do not exceed the benchmark qualify for a waiver from additional benchmark monitoring for the remainder of the permit term.
- Follow-up monitoring requirements have been added when results indicate a facility's discharge exceeds a numeric effluent limitation, or causes and contributes to an exceedance of a water quality standard, to verify that BMPs have been modified to protect water quality. Facilities with follow-up monitoring exceedances are required to report those to EPA within 30 days of receiving the analytical data.
- Benchmark Monitoring Requirements for Total Suspended Solids (TSS) were added for each sector where they were not otherwise included in the MSGP 2000.
- Total Recoverable Chromium and Phenols were added as Benchmark Monitoring Parameters for the Wood Preserving (SIC 2491) Subsector of Sector A—Timber Products.
- Total Recoverable Manganese was removed as a Benchmark Monitoring Parameter for Waste Rock and Overburden Piles from Active Ore Mining or Dressing Facilities under Sector G—Metal Mining (Ore Mining and Dressing).
- Total Recoverable Lead, Total Recoverable Nickel, Total Recoverable Zinc, Ammonia Nitrogen, and Nitrate + Nitrite Nitrogen were added as Benchmark Monitoring Parameters for the Oil Refining (SIC 2911) Subsector of Sector I—Oil and Gas Extraction and Refining.
- Total Recoverable Lead was added as a Benchmark Monitoring Parameter for the Tires and Inner Tubes; Rubber Footwear; Gaskets, Packing and Sealing Devices; Rubber Hose and Belting; and Fabricated Rubber Products, Not Elsewhere Classified (SIC 3011–3069, rubber manufacturing only) Subsector of Sector Y—Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries.
- Total Recoverable Lead and Total Recoverable Copper were added as a Benchmark Monitoring Parameter for the Electronic and Electrical Equipment and Components Except Computers (SIC 3612–3699) Subsector of Sector AC—Electronic, Electrical, Photographic, and Optical Goods Sector.
- Electronic monitoring data reporting options will be available for filing all monitoring data, including follow-up monitoring data. In addition, it will be possible to file reports of unauthorized discharges electronically. All electronic reporting will be through the eNOI Center system.

**Industry Sector-specific Requirements**

- The organization of Sector G—Metal Mining requirements has been revised. Additional information has been added regarding contaminated seeps and springs discharging from waste rock dumps; final stabilization; management, inspection, maintenance, and cessation of clearing, grading, and excavation activities; site map requirements; and monitoring frequency.
- Management, inspection, maintenance, and cessation requirements for clearing, grading, and excavation activities have been added to Sector J—Mineral Mining and Dressing.
- Additional information has been added to Sector M—Automobile Savage Yards to include the inspection of areas where hazardous materials are stored and the proper handling of mercury-containing automotive switches.
- Added information on mercury spill kits to Sector N—Scrap Recycling and Waste Recycling Facilities.
- Added text to include illicit plumbing connections and a SWPPP requirement to include specific good housekeeping control measures used in each of the facility areas in Sector P—Land Transportation and Warehousing.
- Requirements have been added to Sector S—Air Transportation for emphasizing BMPs, facility inspections, specific good housekeeping control measures requirements, vehicle and equipment washwater requirements, and monitoring during the deicing

season and for describing controls used for collecting or containing contaminated melt water from collection areas used for disposal of contaminated snow.

- Added electrical and electronic equipment and components to Sector AC—Electronic and Electrical Equipment and Components, Photographic and Optical Goods.

*C. Permit Appeal Procedures*

Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with Section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any conditions of the individual permit (40 CFR 124.19 as modified on May 15, 2000, 65 FR 30886).

## III. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has exempted review of NPDES general permits under the terms of Executive Order 12866.

## IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Issuance of an NPDES general permit is not subject to rulemaking requirements, including the requirement for a general notice of proposed rulemaking, under APA section 553 or any other law, and is thus not subject to the RFA requirements.

The APA defines two broad, mutually exclusive categories of agency action—"rules" and "orders". Its definition of "rule" encompasses "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency * * *" APA section 551(4). Its definition of "order" is residual: "a final disposition * * * of an agency in a matter other than rule making but including licensing." APA section 551(6) (emphasis added). The APA defines "license" to "include * * * an agency permit * * *" APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes "rule making" requirements. The APA defines "rule making" as "the agency process for formulating, amending, or repealing a rule." APA section 551(5). By its terms, then, section 553 applies only to "rules" and not also to "orders," which include permits.

## V. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (See, *e.g.*, UMRA section 201, "Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)" (emphasis added)). UMRA section 102 defines "regulation" by reference to 2 U.S.C. 658 which in turn defines "regulation" and "rule" by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law. * * *"

As discussed in the RFA section of this notice, NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

## VI. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the proposed Multi-Sector General Permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the Multi-Sector General Permit have already been approved by the Office of Management and Budget (OMB) (OMB Control No. 2040–0188) in previous submissions made for the NPDES permit program under the provisions of the Clean Water Act.

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: November 16, 2005.

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Dated: November 16, 2005.

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Dated: November 15, 2005.

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