

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
STORM WATER IMPLEMENTATION PACKAGE

PROPOSED RULE AND DRAFT GENERAL PERMITS

A SUMMARY

United States Environmental Protection Agency

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I. BACKGROUND

The 1972 amendments to the Federal Water Pollution Control Act (FWPCA, also referred to as the Clean Water Act or CWA), prohibited the discharge of any pollutant to navigable waters from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Efforts to improve water quality under the NPDES program have focused traditionally on reducing pollutants in discharges of industrial process waste water and from municipal sewage treatment plants. Efforts to address storm water discharges under the NPDES program have focussed primarily on discharges from ten industry categories with effluent limitations for storm water.

In response to the lack of comprehensive NPDES requirements for storm water discharges via point sources, Congress amended the CWA in 1987 to require the Environmental Protection Agency (EPA) to establish phased NPDES requirements for storm water discharges. In response to these requirements, EPA published initial permit application requirements for storm water discharges associated with industrial activity, and discharges from municipal separate storm sewer systems serving a population of 100,000 or more on November 16, 1990 (55 FR 47990).

The rulemaking defined the term "storm water discharge associated with industrial activity" in a comprehensive manner to address storm water discharges from eleven classes of facilities. In addition, the rulemaking established individual and group application requirements for these discharges.

Addressing storm water discharges associated with industrial activity under the NPDES program significantly expanded the scope of the NPDES program. EPA has developed the NPDES storm water implementation package to address a number of issues associated with the implementation of the NPDES requirements for storm water discharges associated with industrial activity.

II. ENVIRONMENTAL IMPACTS

Pollutants in storm water discharges from many sources are largely uncontrolled. The "National Water Quality Inventory, 1988 Report to Congress" provides a general assessment of water quality based on biennial reports submitted by the States under Section 305(b) of the Clean Water Act. The Report indicates that of the rivers, lakes, and estuaries that were assessed by States (approximately one-fifth of stream miles, one-third of lake acres and one-half of estuarine waters), roughly 70 to 75% are supporting the uses for which they are designated. The Assessment concludes that diffuse sources of pollution appear to be increasingly important contributors of use impairment as discharges of industrial process wastewaters and municipal sewage plants come increasingly under control and intensified data collection efforts provide additional information.

In developing the National Water Quality Inventory, the States identified a number of major sources of pollution, including, separate storm sewers, construction, waste disposal, and resource extraction, which correlate well with categories of facilities addressed by the regulatory definition of "storm water discharge associated with industrial activity".

III. SUMMARY OF THE PROPOSAL

The NPDES storm water implementation notice addresses a number of issues associated with the implementation of permit requirements for storm water discharges associated with industrial activity. The implementation notice requests public comment on four major areas:

- 1) Guidelines for a preliminary permitting strategy for storm water discharges associated with industrial activity;
- 2) Proposed regulatory modifications addressing annual monitoring requirements for storm water discharges associated with industrial activity;
- 3) Proposed regulatory modifications addressing notice of intent requirements for general permits; and
- 4) Draft baseline general permits for storm water discharges associated with industrial activity in the 12 States and 6 territories which do not have authorized State NPDES programs and 20 additional States for storm water discharges from Indian Tribes or Federal facilities.

IV. STRATEGY FOR PERMIT ISSUANCE

EPA is developing a flexible strategy for issuing permits for storm water discharges associated with industrial activity. The Strategy establishes two major components, a framework for developing permitting priorities and a framework for the development of State Storm Water Permitting Plans.

The Agency believes that most permitting activities for storm water discharges associated with industrial activity can be described in terms of the following four classes of activities:

- o Tier I - Baseline Permitting: One or more general permits will be developed to initially cover the majority of storm water discharges associated with industrial activity;
- o Tier II - Watershed Permitting: Facilities within watersheds shown to be adversely impacted by storm water discharges associated with industrial activity will be targeted for

individual or watershed-specific general permits.

- o Tier III - Industry-Specific Permitting: Specific industry categories will be targeted for individual or industry-specific general permits; and
- o Tier IV - Facility-Specific Permitting: A variety of factors will be used to target specific facilities for individual permits.

These four classes of activities will be implemented over time and will reflect priorities within given States. In most States, Tier I activities, issuance of baseline permits, will be the initial starting point. As priorities and risks within the State are evaluated, classes of storm water discharges or individual storm water discharges will be identified for Tier II, III or IV permitting activities.

The long-term permitting strategy also provides guidance for the development of State storm water permitting plans. These plans will serve as a mechanism to provide public participation and ensure appropriate implementation of storm water permitting activities within the various States.

Relationship Between Municipalities and Permit Issuing Agencies

EPA anticipates that a large percentage of storm water discharges associated with industrial activity discharge through municipal separate storm sewer systems. The Agency is in the process of initiating permit issuance efforts for discharges from municipal separate storm sewer systems serving a population of 100,000 or more. These permit issuance efforts will ensure municipal cooperation in efforts to control pollutants discharged through these municipal separate storm sewer systems.

The implementation notice clarifies EPA policy on the development of complementary control strategies for storm water discharges associated with industrial activity between operators of municipal separate storm sewer systems and permit issuing Agencies. The Agency intends to coordinate requirements in permits for storm water discharges associated with industrial activity with efforts to develop municipal storm water management programs in permits for discharges from municipal separate storm sewer systems serving a population of 100,000 or more. Under this coordinated effort, municipal permittees will have a major role in implementing programs to control pollutants from storm water associated with industrial activity which discharges through their municipal separate storm sewer.

V. DISCHARGE MONITORING REPORTS

The existing NPDES regulations at 40 CFR 122.44(i)(2)

provide that requirements in permits to report monitoring results are to be established on a case-by-case basis to ensure compliance with permit limitations, but that the requirements to report monitoring results should in no case be less than once a year.

The draft proposal requests comments on six options for addressing this issue ranging from retaining the minimum requirement of annual submittal of discharge monitoring reports to providing for case-by-case monitoring conditions with no minimum requirement to monitor or report. The draft proposal favors amending the regulation to provide, at a minimum, that permits for storm water discharges require annual sampling (without reporting) which would be retained by the discharger unless the information was requested in a permit or by the Director. Under the option favored in proposal, permits for storm water discharges from oil and gas operations must either require annual sampling (without reporting) or, in lieu of sampling, a Professional Engineer's certification attesting that good engineering practices were being employed to meet appropriate permit conditions.

VI. NOTICE OF INTENT REQUIREMENTS

EPA anticipates that general permits will play an important role in efforts to issue permits for storm water discharges associated with industrial activity. In addition, general permits provide a valuable tool for permitting many other classes of non-storm water discharges.

The NPDES regulations exclude persons covered by general permits from requirements to submit individual permit applications. Currently, conditions for notification of intent (NOI) to be covered by a general permit are established in permits on a case-by-case basis. To encourage the use of general permits and to ensure that general permits provide the appropriate programmatic framework, the Agency is proposing to modify the regulatory framework for general permits to provide minimum requirements for notices of intent to be covered by general permits. The notice also requests comments on whether it would be appropriate to exclude certain classes of storm water discharges from NOI requirements, such as those from oil and gas operations.

Under the proposed regulatory change, the minimum requirements for notice of intent include: the legal name and address of the owner or operator; the facility name and address; type of facilities or discharges; the receiving stream(s); and such other information as is reasonably necessary to ascertain whether the discharger (or treatment works treating domestic sewage) should be included under the terms of the general permit as specified in the final general permit.

VII. DRAFT GENERAL PERMITS

The storm water implementation package also provides notice for draft general permits for storm water discharges associated with industrial activity in 12 States (MA, ME, NH, FL, LA, TX, OK, NM, SD, AZ, AK, ID), and six Territories (District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) without authorized NPDES State programs; on Indian lands in AL, CA, GA, KY, MI, MN, MS, MT, NC, ND, NY, NV, SC, TN, UT, WI, and WY; located within federal facilities and Indian lands in CO and WA; and located within federal facilities in Delaware.

Major components of the draft general permits for storm water discharges associated with industrial activity include:

- o Notice of Intent (NOI) requirements
- o Prohibitions;
- o Requirements to develop and implement storm water pollution prevention plans;
- o Effluent limitations for two classes of discharges; and
- o Monitoring requirements.

Dischargers which submit an NOI to be covered by the general permit are generally not required to submit an individual permit application or participate in a group application. The burdens to dischargers of submitting an NOI are significantly less than the burdens associated with submitting an individual application or participating in a group application. The NOI requirements of the general permit only address general information and do not require the collection of monitoring data. EPA intends to have NOIs associated with permits in a number of Regions and authorized NPDES States sent to a centralized address. Optical character readers will be used to process the NOIs. Lists of facilities covered under a general permit will then be provided to each Region and State for tracking and enforcement purposes. This will greatly reduce the administrative burdens on Regions and States.

The general permit prohibits the discharge of storm water which is mixed with a source of non-storm water where the non-storm water discharge is not otherwise authorized by a different NPDES permit. The draft general permit also prohibits discharges that contain a hazardous substance in excess of reporting quantities established at 40 CFR 117.3 or 40 CFR 302.4. Both

classes of discharges which are not authorized by this general permit are more appropriately covered by individual permits or other general permits.

The draft general permit contains effluent limitations for two classes of discharges, coal pile runoff and for storm water associated with industrial activity that comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals; and for truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals at SARA Title III, Section 313 facilities.

All facilities covered by the general permit must prepare and implement a storm water pollution prevention plan. The permit addresses tiered sets of pollution prevention plan requirements for a number of categories of industries: construction activities; baseline requirements for all industries except construction activities; special requirements for storm water discharges associated with industrial activity to large and medium municipal separate storm sewer systems; and special requirements for facilities with outdoor salt storage piles. In addition, comments are requested on two options for special requirements for certain facilities subject to SARA Title III, Section 313. Under Option A, SARA Title III, Section 313 facilities with storm water associated with industrial activity that comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals; and for truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals at SARA Title III, Section 313 facilities would be subject to special spill prevention and containment requirements and an effluent limitation. Under Option B, such facilities would remain subject to the effluent limitation, but would not be subject to special spill prevention and containment requirements.

Most dischargers covered by the permit must conduct annual monitoring of eight conventional parameters. Facilities subject to these 'baseline' monitoring requirements are subject to record keeping requirements, but generally are not required to report monitoring data to EPA. Industry specific semi-annual monitoring and reporting requirements are established for storm water discharges associated with industrial activity from six classes of industries: SARA Title III, Section 313 facilities; primary metal facilities; land disposal units; wood treatment facilities (wood preservers) using chlorophenolic/creosote formulations; wood treatment facilities (wood preservers) using arsenic/chromium preservatives; and coal pile runoff. Operators of contaminated storm water discharges associated with industrial activity from oil and gas exploration and production operations and from inactive mining operations where a past or present mine operator cannot be identified have the option of either monitoring their storm water discharges associated with

industrial activity annually or, in lieu of the monitoring, a facility may have a Registered Professional Engineer certify that a storm water pollution plan has been prepared and is being implemented in accordance with the requirements of the permit.