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Emily Halter
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460
Mail Code (4203M)

Submitted via: [regulations.gov](https://www.regulations.gov)

Re: NACWA Comments on EPA's National Pollutant Discharge Elimination System: 2020 Issuance of the Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (EPA-HQ-OW-2019-0372)

Dear Ms. Halter:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA) proposed issuance of the 2020 Multi-Sector General Permit (MSGP) for industrial stormwater discharges (85 Fed. Reg. 12288).

NACWA represents the interests of more than 330 public municipal clean water utilities and stormwater agencies across the country who are responsible for treating and managing billions of gallons of the nation's wastewater and stormwater each day to ensure the continued protection of public health and the environment.

The proposed 2020 MSGP makes several significant modifications from the prior 2015 MSGP. The proposed changes are partly a result of litigation and a 2016 settlement requiring the National Academy of Sciences, Engineering, and Medicine's National Research Council (NRC) to study and make recommendations to EPA on how to better mitigate surface water pollution from industrial activity in the next MSGP iteration.

Many publicly owned treatment works (POTWs) have taken proactive steps over the last decade to limit pollution caused by industrial stormwater discharges by relocating any outdoor industrial activity indoors or covering stockpiled supplies for more control over stormwater discharges. As such, many POTWs apply for and receive No Exposure Certifications (NOEs). Other POTWs "combine" their stormwater drainage areas on-site and direct stormwater to the wastewater treatment process, eliminating the need for coverage under the MSGP entirely.

Traditionally, NACWA's members that are permitted under the Sector T, Treatment Works¹ requirements of the MSGP or a state equivalent have not experienced significant compliance issues with the permit's terms and the stormwater discharges have not had negative impacts on water quality. However, NACWA is concerned that the proposed 2020 MSGP will have considerable impacts on the clean water community by adding monitoring requirements and control measures that will not likely result in tangible water quality improvements.

EPA Must Seek an Alternate Approach to Universal Benchmark Monitoring

The proposed 2020 MSGP includes new benchmark monitoring requirements for total suspended solids (TSS), pH, and chemical oxygen demand (COD) for all industry sectors covered under the permit. EPA is seeking comment on viable alternative approaches to benchmark monitoring for characterizing industrial site stormwater discharges, quantifying concentrations, and assessing control measure effectiveness.

NACWA urges EPA not to finalize these novel universal benchmark monitoring provisions, or in the alternative to exclude historically low-risk industries that have not shown significant benchmark exceedances including Sector T, Treatment Works.

Under previous MSGP iterations, POTWs were not required to conduct benchmark monitoring because they are not significant contributors to water quality exceedances. Neither EPA nor the NRC study provide data to demonstrate any change in circumstances that would justify the imposition of such monitoring requirements now. Moreover, the universal benchmark requirement to monitor for these three water quality parameters will substantially increase the burden to POTWs to be on call for sample collection within 30 minutes of a qualifying event and will necessitate costly additional laboratory analysis.

POTWs are not significant contributors of industrial stormwater discharges that result in water quality exceedances for pH, COD, or TSS, and monitoring requirements would therefore impose unjustified costs on the clean water community. EPA should either eliminate this one-size-fits-all approach to benchmark monitoring or exclude POTWs from the proposed universal benchmark monitoring requirements.

EPA Must Eliminate the Proposed Requirements for Enhanced Control Measures to Mitigate Major Storm Events

The proposed 2020 MSGP also includes new control measures for industries to implement designed to minimize impacts from stormwater discharges from major storm events that trigger extreme flood conditions. EPA is specifically seeking feedback as to whether the proposed 2020 MSGP is an appropriate avenue for such language and whether the permit can help identify facilities that are high risk for stormwater impacts from extreme storm events.

¹ Sector T is defined as Treatment Works that have a design flow of more than 1 million gallons per day or are required to have an approved pretreatment program.

NACWA opposes this mandate for control measures based on the Federal Emergency Management Agency's (FEMA) flood maps. POTWs are traditionally located on low-lying topography and have long-standing experience dealing with building resilience from major storm events and serious flooding. Clean water utilities are dedicated to improving resiliency within their communities and do so through various measures including capital improvements and green infrastructure. Including requirements in the MSGP that could impede or conflict with these efforts is inappropriate. EPA should avoid these concerns by eliminating the unnecessary proposed enhanced control measures in the final MSGP.

Appropriate MSGP Requirements are Particularly Critical in Light of the National Precedent the Permit Establishes

The 2020 MSGP could be used as a model for multiple other EPA- and state-issued stormwater permits nationwide, including the municipal separate storm sewer system (MS4) permits that dictate how many large and small communities across the country manage stormwater.² NACWA is therefore particularly troubled by EPA's proposed one-size-fits-all universal benchmark monitoring approach that would unduly burden sectors, including POTWs, that rarely if ever exceed benchmark thresholds for the proposed water quality parameters, as well as EPA's proposed storm mitigation measures. EPA has not demonstrated any need for these prescriptive provisions and should not include them in a permit that serves as a model for clean water communities and stormwater utilities across the country.

Conclusion

NACWA appreciates the opportunity to comment on EPA's proposed 2020 MSGP. NACWA urges EPA to abandon its proposed universal benchmark monitoring approach for facilities that are considered low-risk, such as Sector T facilities and eliminate resiliency requirements that are outside the scope of the permit, particularly in light of the MSGP's precedential impacts.

If you have questions, please contact me by phone at 202/533-1839 or by email at eremmel@nacwa.org.

² Municipal separate storm sewer systems (MS4s) are subject to a unique permitting standard under the Clean Water Act (CWA) and are required to "reduce the discharge of pollutants to the maximum extent practicable (MEP)" or what is known as the MEP standard. 33 U.S.C. § 1342(p)(3)(B)(iii); 40 C.F.R. § 122.26(d)(2)(iv) (applicable to Large and Medium MS4s); 40 C.F.R. § 122.34 (applicable to Small MS4s). The MS4 standard is different than the CWA's usual tools for regulating discrete discharges that often include numeric effluent limitations, like those found in the industrial stormwater MSGP. NACWA has concerns that the prescriptive requirements found in the industrial stormwater MSGP could serve as model language for MS4 permit writers seeking to include more stringent numeric limits and similar prescriptive requirements which would be an unlawful divergence from the MEP standard afforded to MS4 permittees.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Remmel". The signature is fluid and cursive, with a large loop at the end.

Emily Remmel
Director, Regulatory Affairs