

**VERMONT AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

FACT SHEET

**NPDES MULTI-SECTOR GENERAL PERMIT 3-9003 FOR STORMWATER
DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES**

I. Purpose

The Secretary of the Agency of Natural Resources (Secretary) is providing this Notice of the issuance of Permit 3-9003, the Multi-Sector General Permit Stormwater Discharges Associated with Industrial Activity (MSGP), which authorizes operators of stormwater discharges associated with industrial activity to discharge to waters of the State. The permit requires industrial facilities in 29 different industrial sectors to, among other things, implement control measures and develop site-specific stormwater pollution prevention plans (SWPPPs) to comply with NPDES requirements.

This general permit replaces the Multi-Sector General Permit (MSGP) 3-9003 which expired on August 4, 2016. The Secretary administratively continued the 2011 MSGP and granted all current authorizations general permit coverage until the reissuance date. All permittees with Authorizations to Discharge under this previously issued MSGP and those permittees who submitted Conditional Exclusions for No Exposure (NOX) must reapply to discharge under this new permit.

II. Multi-Sector General Permit (MSGP) Legal Authority

Pursuant to the Secretary of the Vermont Agency of Natural Resources' federally-delegated authority, the Secretary is issuing the Multi-Sector General Permit (MSGP). The MSGP is issued in compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. § 1251 *et seq.*), and related regulations of the United States Environmental Protection Agency (U.S. EPA) at 40 C.F.R. Part 122, including 40 C.F.R. § 122.26; the Vermont Water Pollution Control statutes, 10 V.S.A. Chapter 47, including 10 V.S.A. §§ 1258, 1259, and 1264; and the Vermont Water Pollution Control Permit Regulations (Environmental Protection Rules, Chapter 13), including the rule governing general permits in Section 13.12.

III. Summary of Changes from the 2011 MSGP

The 2017 MSGP includes several new or modified requirements, and thus differs from the 2011 MSGP in various ways. The following list summarizes the more significant changes to the MSGP.

Information Required for Notices of Intent (NOIs)

The 2017 MSGP revises the information required in NOIs to provide the Secretary of Natural Resources (Secretary) with adequate information to determine eligibility, to determine whether

additional water quality-based control measures are necessary to comply with the permit's effluent limits, and to enable the Secretary to inform the operator of its specific monitoring requirements. Operators now need to:

- Include location information for each stormwater outfall they discharge from,
- Identify the hardness of the receiving water (if subject to benchmark monitoring for metals),
- Determine the outfall latitude and longitude information for each outfall to automatically determine the receiving waters that the site discharges to and the receiving waters' impairment status.

Operators seeking coverage under this new permit must submit a complete and accurate Notice of Intent (NOI) to be covered and certify in the NOI that they meet the requisite eligibility requirements, described in Part 1 of the permit, including the requirement to select, design, and install control measures to comply with the technology and water quality based effluent limits in Part 2 and to develop a SWPPP, pursuant to Part 5. Once covered under this permit, a permittee is required to take corrective action if it determines through inspection, evaluation, or monitoring that the control measures chosen to meet the limits are not adequately reducing pollutants in the discharge.

Electronic Reporting Requirements

Electronic reporting is required in the 2017 MSGP. Electronic reporting is necessary to create efficiencies and reduce the burden of submitting information to the Agency. Recognizing there may be cases that make electronic submittals of information impossible, the Secretary has included a paper option that operators may use after they ask for and are granted a waiver.

Effluent Limit Clarifications

Several of the effluent limits in Part 2 of the 2017 MSGP include a greater level of specificity to make the requirements clearer and to enable permittees to better comply with the effluent limits. The effluent limits for which the Secretary has made clarifications include requirements for minimizing exposure, good housekeeping, maintenance, spill prevention and response procedures, and employee training.

Inspections

The Secretary consolidated the comprehensive site inspection and routine facility inspection procedures into one set of procedures to eliminate redundancies and reduce burden.

Corrective Actions

Although the 2011 MSGP required corrective actions, the Secretary has clarified in the 2017 MSGP which conditions for corrective actions require a SWPPP review, included and modified deadlines to clearly identify what actions must be taken by the deadlines, and rewritten and clarified the reporting requirements following corrective actions.

SWPPP Availability

The Secretary will post each facility's SWPPP on the Agency's Environmental Research Tool at: <https://anrweb.vt.gov/DEC/ERT/StormWater.aspx>.

The purpose of this is to provide greater SWPPP access to the public.

Industry Sector-specific Requirements

The following changes were made to Part 8 of the MSGP, which describes requirements tailored to specific industry sectors:

Sector A, Timber Products – Discharges resulting from uncontaminated spray down or intentional wetting of logs at wet deck storage areas is an allowed non-stormwater discharge, providing the effluent limitation in Part 8.A.7 is met. To accommodate situations where facilities use water from a waterbody that operators intend to return to the waterbody following spraying/wetting, the permit contains an allowance or credit for pollutants originally in the waterbody prior to use and discharge.

Sector G, Metal Mining – Facilities conducting metal mining are no longer able to receive permit coverage for earth disturbing activities conducted prior to metal mining under the MSGP. Metal mining facilities planning to conduct earth disturbing activities must apply for and receive authorization under the Construction General Permit (CGP 3-9020 or its equivalent) or an individual construction permit.

Sector H, Coal Mining – Additional requirements have been added that are consistent with changes made to Sector G.

Sector J, Mineral Mining and Dressing – Sector J has been updated to include construction permit requirements consistent with the Agency’s Construction General Permit (3-9020) standards. This allows the applicant to follow the construction requirements of the general permit, rather than apply for a separate construction permit for earth disturbing and/or reclamation activities. The MSGP now requires all areas subject to earth-disturbing activities or reclamation activities to comply with an Erosion Prevention and Sediment Control Plan (EPSC Plan) described in Part 8.J.4.1.1. This plan has specific guidelines on how to manage areas in terms of stabilization, mitigation, reclamation, and pollution prevention.

Sector S, Air Transportation – Requirements have been added based on the final ELG for jet and airport deicing operations. Also, the 2017 MSGP clarifies airport operators’ responsibilities and permit requirements that airport authorities may conduct on behalf of airport tenants.

IV. Effluent Limitations

The 2017 MSGP contains various control measures for the effluent limits, both Technology-Based Effluent Limitations (TBELs) and Water Quality Based Effluent Limitations (WQBELs), which help reduce the amount of pollution discharged from industrial activities.

TBELs correspond to required levels of technology-based control (best practicable control technology currently available (BPT), best conventional pollutant control technology (BCT), best available technology economically achievable (BAT)) for various discharges under the CWA. Where an Effluent Limitation Guidelines (ELG) or New Source Performance Standard (NSPS) applies to discharges authorized by this permit, the requirement must be incorporated into the permit as an effluent limitation. The Secretary determines the appropriate technology-based

level, numeric or non-numeric, of control based on best professional judgment (BPJ, sometimes also referred to as "best engineering judgment") of the permit writer. CWA section 402(a)(1); 40 CFR 125.3. For the 2017 MSGP, most of the technology-based limits are based on BPJ decision-making because no ELG applies (however, there are specific regulated activities under Part 8 for which numeric effluent limitations based on ELGs apply). The BAT/BPT/BCT effluent limits in the 2017 MSGP are expressed as specific pollution prevention requirements for minimizing the pollutant levels in the discharge.

Part 2.1 requires operators to select, design, install, and implement control measures, in accordance with good engineering practices and manufacturer's specifications, to meet the TBELs listed in Parts 2.1.2 and 2.1.3 and the WQBELs in Part 2.2. If operators find their stormwater control measures are not reducing pollutant discharges adequately, the control measures must be modified in accordance with the Part 4 corrective action requirements.

The permit's approach to control measures is consistent with the CWA and its implementing regulations at 40 CFR 122.44(k)(4). Section 402(a)(2) of the CWA states: "The administrator shall prescribe conditions for such permits to assure compliance with the requirements in paragraph (1) . . . including conditions on data and information collection, reporting and such other requirements as he/she deems appropriate." (Section 402(a)(1) includes effluent limitation requirements.) This statutory provision is reflected in the CWA implementing regulations, which state that best management practices (BMPs), i.e., control measures, can be included in permits when "[t]he practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA." 40 CFR 122.44(k)(4).

Non-Numeric Technology-Based Effluent Limits (BPT/BAT/BCT) (Part 2.1.2).

The 2017 MSGP requires permittees to comply with non-numeric technology-based effluent limits, expressed narratively pursuant to 40 CFR 122.44(k), by implementing stormwater control measures. The achievement of these non-numeric limits will result in the reduction or elimination of pollutants from stormwater discharges. Such limits were developed using the Secretary's best professional judgment (BPJ). The requirements in Part 2 are the effluent limits applicable to all discharges associated with industrial activity for all sectors, while additional sector-specific effluent limits are found in Part 8.

Water Quality-Based Effluent Limitations (Part 2.2).

The 2017 MSGP includes water quality-based effluent limits (WQBELs) to ensure that MSGP-authorized discharges will be controlled as necessary to meet applicable water quality standards, pursuant to CWA section 301(b)(1)(C) and 40 CFR 122.44(d)(1). The provisions of Part 2.2 constitute the WQBELs of the 2017 MSGP, and supplement the permit's technology-based effluent limits in Part 2.1. The following is a list of the permit's WQBELs:

- Control discharges as necessary to meet applicable water quality standards (i.e., discharges must not cause or contribute to a violation of applicable water quality standards) (See Part 2.2.1);

- Implement any additional measures that are necessary to be consistent with the assumptions and requirements of the applicable Total Maximum Daily Load (TMDL) and its wasteload allocation (See Part 2.2.2.1). For discharges to impaired waters without a TMDL, conduct impaired waters monitoring (See Part 2.2.2.2). Additionally, new discharges to impaired waters must implement any measures required per the Part 1.1.4.8 eligibility requirements;
- Implement any additional measures that the Secretary determines are necessary to comply with applicable antidegradation requirements for discharges to high quality and outstanding resource waters (see Part 2.2.3).

Prior to or after initial discharge authorization, the Secretary may require operators to implement additional measures on a facility-specific basis, or require permittees to obtain coverage under an individual permit, if information in the NOI, required reports, or other sources indicates that, after complying with the technology-based limits in Part 2.1 and the WQBELs in Part 2.2, discharges will not be controlled as necessary to meet water quality standards.

Facilities that achieve the permit's technology-based limits through the careful selection, design, installation, and implementation of effective control measures are likely to be controlling their stormwater discharges to a degree that would make additional water quality-based measures unnecessary. However, to ensure that this is so, the permit contains additional provisions in Part 2.2, which, along with the BAT/BPT/BCT limits in the permit, are as stringent as necessary to achieve water quality standards.

The WQBELs included in the permit continue to be non-numeric. The Secretary relies on a narrative limit to ensure discharges are controlled as necessary to meet applicable water quality standards, and to ensure that additional measures are employed where necessary to meet the narrative WQBELs, or to be consistent with the assumptions and requirements of an applicable TMDL and its WLA, or to comply with the State's antidegradation requirements. This is a reasonable approach for the 2017 MSGP, based on the following considerations:

- Limited waterbody information available about individual dischargers: the Secretary will not know prior to receiving NOIs where any new facilities are located and where they will discharge. In addition, existing facilities' NOI data from earlier permits has typically been difficult to access, and this factor plus other NOI system limitations have restricted the number and quality of NOI reviews that the Secretary could do. Facility type and location, and receiving water information are necessary for the Secretary to determine what, if any, special protections apply to that water. To assist operators in determining their receiving water information, the Secretary has a tool in eDMR that will automatically identify their receiving water(s) and impairment status. The Secretary's receipt of the NOI and receiving water information may then trigger a review. For now, however, it is not possible to know what specific requirements apply to facilities a priori, and to include any such requirements in a general permit.
- Review of the NOI and applicable watershed documents is the appropriate forum for deriving facility-specific WQBELs: Once the Secretary receives an NOI for the new

permit, the Agency will be better able to assess whether any more protective control measures are necessary. For instance, if an NOI indicates that the facility will discharge to an impaired waterbody with an Agency-approved or established TMDL, the Secretary can analyze the relevant information to determine whether any additional control measures are necessary to meet the permit's effluent limits and whether discharges will be consistent with the TMDL and WLAs. If the operator is unwilling or unable to implement such additional control measures (or other measures that would yield the same results), the Secretary may notify the facility that it is not eligible for MSGP coverage and must instead apply for an individual permit. The Secretary may undertake a similar assessment process when facilities indicate that they are discharging to a waterbody designated as high quality or outstanding resource waters for antidegradation purposes.

V. Public Notice and Comment Period

The Secretary is providing a public comment period on the draft general permit from Tuesday, February 21, 2017 through Monday, April 3, 2017. Interested parties may submit written comments on the general permit to the Department at the address given below by no later than 4:30 p.m. on Monday, April 3, 2017. All relevant comments will be considered by the Secretary in finalizing this general permit.

A public information meeting will be held on Thursday, March 23, 2017 from 1 to 3 pm, at the ANR Annex located at [190 Junction Road, Berlin VT](#). At the meeting, Department staff will be available to answer questions concerning the general permit.

A copy of the Multi-Sector General Permit and related documents may be downloaded from:

<http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/multi-sector-general-permit>

Hard copies of the General Permit and related documents may be obtained upon request. Written comments should be mailed or emailed to:

VT Agency of Natural Resources
DEC Stormwater Management Program
c/o Jamie Bates
1 National Life Drive, Main 2
Montpelier, VT 05620-3522
Or electronically to jamie.bates@vermont.gov
Or call: 802-490-6159