

EPA Multi-Sector General Permit

How it will guide revision of Oregon's permits

Industrial Stormwater Advisory Committee
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Purpose

- Describe MSGP requirements and EPA's rationale
- Identify areas where Oregon may deviate from the MSGP
- Identify areas where further clarification is needed (e.g., proposing additional permit requirements or guidance to ensure that the permit is clear and implementable)
- Hear from Advisory Committee on questions or feedback you may have

Settlement Agreement: Areas where DEQ may deviate from MSGP

- Continue with public participation requirements
- Expand consequences for benchmark exceedances
- Clarify water quality standards requirements
- Clarify requirements for discharges to impaired waterbodies with TMDL
- Clarify plan requirements
- Consider increasing monitoring requirements related to monitoring waiver
- Consider expanding initial characterization of stormwater discharge

Technology Based Effluent Limits

- TBELs are usually established by EPA in effluent limit guidelines (ELGs) that apply to specific industry categories and activities.
- Most TBELs in MSGP are narrative (Part 2.1)
 - Infeasible to develop numeric limits due to variability of stormwater discharge and best management practices (BMPs) employed at industrial sites.
 - Not many ELGS developed for stormwater discharges
- Narrative TBELs are series of control measures that facilities must implement
 - If facility fails to meet TBEL it is a violation of the permit

Stormwater Pollution Control Plan

- Plan documents selection, design, installation of control measures and describes site, industrial activities and potential pollutant sources.
- MSGP reorganized into 2 separate sections-effluent limits (Part 2) and plan requirements (Part 5)
 - Plan tool to meet TBELs- does not contain limits
 - If facility fails to implement a control measure identified in plan, may result in a TBEL and plan violation.
- DEQ will clarify that plan must be kept up-to-date
 - EPA's intent for operators to keep their plan up-to-date, but MSGP does not have an explicit requirement

Water Quality Based Effluent Limits

- The MSGP includes WQBELs that supplement TBELs
- WQBELs are narrative limits
 - EPA did not have enough information to develop numeric limits that apply to a wide variety of sources in different watersheds
 - EPA has ability to develop site specific requirements for individual facilities to ensure compliance with water quality standards
- WQBELs address:
 - Compliance with water quality standards;
 - Controlling discharges to impaired waters, and
 - Implementation of antidegradation requirements.

Water Quality Standards

- MSGP requires facilities to “control discharge as necessary” to meet water quality standards
 - EPA’s removed “cause or contribute” language-used when determining if WQBELs are necessary (i.e., when conducting a reasonable potential analysis).
 - EPA determined that WQBELs are necessary so must control discharge as necessary to meet WQ standards.
- If EPA or facilities discover discharge causing or contributing to WQ standards violation, take corrective action
 - DEQ will clarify that failure to meet water quality standards is violation even if violation is corrected (see 6.b in settlement agreement).

Water Quality Standards Compliance

- DEQ will clarify how to determine compliance with water quality standards.
- Considering evaluating site specific factors:
 - Facility directly discharges to receiving stream or commingles with other sources before it enters receiving stream
 - Facility discharging a pollutant of concern to an impaired waterbody
 - Where the proper location is for collecting samples (i.e. where is the point of compliance)

Discharges to Impaired Waterbodies

- Eligibility requirement for new dischargers:
 - Facilities that are discharging pollutants of concern may not cause or contribute to a water quality standards violation at the point of discharge
 - DEQ will evaluate developing a monitoring protocol for facilities to follow when collecting data to support that the discharge will meet water quality standards.

Discharges to Impaired Waterbodies

- Existing Discharges to waterbody with TMDL
 - EPA will evaluate TMDL to determine if it additional more stringent, site specific permit requirements are necessary to comply with the WLA.
 - EPA may determine additional monitoring requirements are necessary to comply with assumptions of TMDL and WLA
 - Otherwise control discharge as necessary to meet WQ standards
 - MSGP is not clear about requirements in TMDL basins where TMDL is silent on stormwater or does not specify WLA for stormwater sources.
 - DEQ will evaluate TMDLs and clarify requirements for discharges to these waterbodies (see 6.c in settlement agreement)

Discharges to Impaired Waterbodies

- Existing Discharges without a TMDL
 - Monitor pollutants of concern annually (Part 6.2.4)
 - Stop monitoring after 1st year if pollutants of concern not detected or due to natural background conditions
 - Only applies to facilities that discharge stormwater directly to an impaired waterbody or to pollutants of concern where analytical methods exist
 - MSGP is not clear if monitoring results show pollutants of concern present in discharge above WQ standards whether facility in violation of WQ standards provision in Part 2.2.1.
 - DEQ will clarify how Parts 2.2.1 and 6.2.4 work together

Monitoring

- MSGP requires quarterly grab samples taken during first 30 minutes to account for first flush
 - EPA's rationale: During first 30 minutes of storm stream flows at lowest and pollutant loading presents greatest potential for adverse impacts to aquatic species
- MSGP requires samples collected from each outfall unless substantially identical outfalls
 - DEQ will seek feedback on whether facilities should characterize all outfalls and submit data supporting that outfalls are substantially similar to reduce number of outfalls monitored (see 6.d of settlement agreement)

Benchmarks

- EPA's sector specific benchmarks apply to 29 industrial sectors or subsectors (Part 8)
- Benchmarks were originally developed by EPA for the 1995 MSGP
 - Based on group applications that were submitted by facilities with common industrial practices
 - If facilities submitted insufficient data, EPA did not require benchmark monitoring
- EPA's approach to setting benchmark values:
 - Used acute, aquatic life, freshwater criteria if established.
 - Used chronic, aquatic life, freshwater criteria if no national acute criteria
 - Used stormwater runoff studies or technology-based standards where no national acute or chronic criterion is established.

Benchmarks

- Benchmark parameters facilities sample vary
 - 12 sectors conduct benchmark monitoring throughout the sector
 - 8 sectors conduct some benchmark monitoring, but some subsectors do not conduct benchmark monitoring
 - 9 sectors do not conduct any benchmark monitoring.
- What effect would MSGP have on Oregon's facilities?
 - Approx. 690 (77%) facilities would conduct benchmark monitoring for fewer pollutants
 - Approx. 130 (14%) facilities would monitor for only one or two pollutants
 - Approx. 360 (40%) facilities would not conduct any benchmark monitoring.
- DEQ will evaluate options for ensuring that facilities do not reduce number of parameters that they currently monitor

Response to Benchmark Exceedance

- Under MSGP, if average of four quarterly samples exceeds benchmark(s), facilities required to determine what corrective actions are necessary
 - Facilities summarize corrective actions in an annual report.
 - If infeasible to modify control measures either due to limited available technology or financial constraints, facilities may discontinue benchmark monitoring and record rationale in their plan.
 - Does not include any additional requirements for facilities that have a history of exceeding benchmarks

Response to Benchmark Exceedance

- DEQ's permits require individual permit if based on 4th year calculation, geometric mean of last 4 samples exceeds benchmark(s)
- DEQ will seek feedback on considering permit requirements for facilities that repeatedly fail to meet benchmarks (see 7.b of settlement agreement).
DEQ has considered these options:
 - Escalating consequences based on regularity and intensity of the exceedances.
 - Requiring facilities to conduct additional monitoring
 - Developing criteria for when industries will not be eligible for permit coverage