



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

MEMORANDUM

SUBJECT Modification to National Pollutant Discharge Elimination System (NPDES) 2021 Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity

FROM Christopher Kloss, Director **CHRISTOPHER KLOSS** Digitally signed by CHRISTOPHER KLOSS
Water Permits Division Date: 2021.07.23 11:48:57 -04'00'

TO 2021 MSGP Permittees and NOI Preparers

DATE July 23, 2021

The U.S. Environmental Protection Agency (EPA or Agency) signed and issued the 2021 Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activity on January 15, 2021. The 2021 MSGP became effective on March 1, 2021. Following the issuance of the 2021 MSGP, EPA identified several typographical and similar errors in the permit. The Agency clarified the related permit requirements through the Errata for the 2021 Multi-Sector General Permit for Industrial Stormwater Discharges available at <https://www.epa.gov/system/files/documents/2021-07/2021-msgp-errata.pdf>.

With this memorandum, EPA expresses its intent to issue, pursuant to 40 CFR 122.63, the changes outlined below as minor modifications to the 2021 MSGP for stormwater discharges associated with industrial activity. **The modifications outlined below do not create any new or additional obligations for you or your facility/facilities.** These minor modifications improve the readability of the permit and fact sheet for permittees.

Eligible discharges available for coverage under the 2021 MSGP are not altered in this modification and coverage remains available to operators of eligible facilities. Any industrial facility operator that has permit coverage under the 2021 MSGP prior to the final issuance of the modification will automatically remain covered under the permit. If you have questions or need clarification, please contact us at MSGP@epa.gov.

In the interest of transparency, EPA is providing 2021 MSGP permittees the opportunity to object to any of the minor modifications detailed below. Objections must be submitted to MSGP@epa.gov by August 22, 2021 and EPA will presume consent if you do not reply. After August 22, 2021, EPA will issue a minor modification for any changes for which EPA did not receive an objection.

The modified permit will replace EPA's 2021 MSGP. The modifications will be limited to correcting internal references in Parts of the permit (e.g., Table 2-1 in Part 2.1.3 references incorrect permit parts) and similar errors.

The modifications will correct typographical and similar errors in several existing conditions in the 2021 MSGP and relevant fact sheet sections, but will not affect any other terms and conditions of the existing permit nor the five-year permit term of the current 2021 MSGP, which will expire on February 28, 2026. The current 2021 MSGP remains in effect while the EPA pursues this action. This memo provides notice to the public and describes the modifications and where the modifications can be found in the 2021 MSGP. To assist in the public's review of this proposed modification, EPA has posted a redline strikeout version of the permit and accompanying fact sheet showing all of the proposed modifications in context of the documents they will revise at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>. The modification is summarized in more detail below.

Summary of the Modifications

1. **Endangered Species Act Weblinks and Added Clarification.** In Appendix E, EPA will update the weblinks that are provided to help operators determine if listed threatened or endangered species and/or critical habitats listed by the National Marine Fisheries Service are present within the action area. The updated weblinks link to the same information contained in the existing weblinks in the 2021 MSGP. The updated weblinks send the users directly to the pertinent information, whereas the existing 2021 MSGP weblinks take the users to a landing page that the reader would have to click through to get to the pertinent information. This update will make it easier and faster for the operator to find the information. EPA will also change language in Appendix E (E.2, Criterion C2, fifth bullet) to further clarify that the operator's basis statement should include a description of the EPA approved measures the operator will implement or will continue to implement. This will include those measures that were previously suggested by the services and required by the EPA under the 2015 MSGP provided for Criterion C2. Including this language will reduce confusion and the need for permitting authorities to request additional clarification from operators to support the appropriate selection of Criterion C2.
2. **Master General Permit Number for Indian Country in Florida.** In Appendix C, EPA will change the number for EPA's Master General Permit Number for Indian Country in Florida from "FLR05I000" to "FLR5I0000" based on new information. The 2021 MSGP added Indian Country within the state of Florida as an area eligible for permit coverage in Appendix C. However, EPA was unaware when it finalized the MSGP that the master general permit number was already in use by Florida when issuing their state permits thereby making it unavailable for use by EPA. This update will ensure that master general permit numbers are unique to eliminate conflicts within systems like EPA's Integrated Compliance Information System (ICIS) database.
3. **Tier 2 Waters in New Hampshire.** In Appendix L, EPA will change the weblink to the New Hampshire Tier 2 waters list based on updates to the state's webpage. EPA has become aware that New Hampshire Department of Environmental Services revised its webpage. The updated weblinks bring the users to the same information in a more direct way that eliminates the need to search a directory of publications, as needed in the existing weblinks contained in the 2021 MSGP. EPA will also eliminate the duplicative Tier 3 language contained in Appendix L for New Hampshire. This language was inadvertently repeated twice.
4. **Additional Implementation Measure (AIM) Exception for Aluminum Benchmark Parameter.** EPA will clarify in Part 5.2.6.4a of the MSGP that the exception for aluminum only applies to stormwater discharges to freshwater by inserting a parenthetical stating "only for discharges to freshwater." EPA stated this intention in the 2021 MSGP Fact Sheet: "The 2021 MSGP is also allowing operators who

exceed the revised benchmark thresholds for discharges to freshwater for aluminum and copper to demonstrate to EPA that their discharges do not result in an exceedance of a facility-specific value calculated by the operator using the national recommended water quality criteria multi-variable models in-lieu of the applicable MSGP benchmark threshold” (2021 MSGP Fact Sheet, III. National Research Council (NRC) National Academies of Sciences (NAS) Industrial Stormwater Study/Bullet 4 under “NRC Recommendations on Pollutant Monitoring Requirements and Benchmark Thresholds” on page 6). The exception is based on the national recommended water quality criteria for aluminum that applies only to freshwater so this change will ensure they are properly synced as intended. This approach is also consistent with the way EPA applied the AIM exception for the copper benchmark parameter.

5. Inactive and Unstaffed Sector J Facilities. EPA will update the language in Part 8.J.8 of the MSGP to make it consistent with the language contained in Sectors G and H and in Part 8.J.9. The current text for the inactive and unstaffed conditional exemption in Part 8.J.9 is correct and encompasses visual assessments, inspections, benchmark monitoring, indicator monitoring, and impaired waters monitoring. EPA is making the permit clearer for operators by also including the relevant text from Part 8.J.8 into Part 8.J.9.
6. Standard Industrial Classification (SIC) Code for Marinas in Sector Q. EPA will update a typographical error to the applicable SIC Code for marinas from SIC 4491 to SIC 4493 in Parts 4 and 8 of the MSGP. EPA stated in the 2021 MSGP its intention for marinas to conduct indicator monitoring for polycyclic aromatic hydrocarbons (PAHs), but made a typographical error identifying the applicable SIC code for marinas.
7. References to Incorrect Permit Parts. EPA will correct several errors throughout the permit when cross-referencing parts of the permit. For example, the effluent limits column in Table 2-1 (Applicable Effluent Limitations Guidelines) of Part 2.1.3 references incorrect permit parts for all but one of the listed regulated activities. A more specific example includes that the regulated activity “discharges resulting from spray down or intentional wetting of logs at wet deck storage areas” should refer to Part 8.A.8 rather than 8.A.7 as in the 2021 MSGP. Another example can be found in Part 1.2.2.3 where the reference to authorized non-stormwater discharges should cite Part 1.2.2.1 not Part 1.2.2.3.
8. Clarifying Part 1.2.2.3 Requirements. EPA will reorder the text in this part for clarity to improve the reader experience in following which non-stormwater discharges are authorized for earth-disturbing activities conducted prior to active mining activities. The bullets labelled a, b, and c have been moved to follow the first sentence so that it’s clear to the readers those are the only non-stormwater discharges authorized for earth-disturbing activities conducted prior to active mining activities and that once these earth-disturbing activities prior to active mining activities have ceased, Part 1.2.2.1 applies.
9. Arsenic Benchmark Threshold. EPA will modify the permit to delete typos where the arsenic benchmark threshold for freshwater is improperly identified as being hardness-dependent.
10. Annual Report Form Typo. EPA will modify Appendix I to correct a typo in D.3 that refers to AIM incorrectly as “advanced” rather than “additional” implementation measures.
11. Adding Deadline in Part 8.G.8.4. EPA will modify Part 8.G.8.4 to remove a referenced parenthetical in the last sentence to replace the “insert 90 days after permit effective date” statement with the deadline date of “May 30, 2021.”
12. 401 Certification for Lummi Nation. EPA will include conditions from the Lummi Nation in this modification. EPA requested and received a 401 certification per the regulatory procedures at 40 CFR 121 and 124.53 from the Lummi Nation in Washington. However, EPA inadvertently did not

include the conditions in Part 9 of the 2021 MSGP.¹

13. 401 Certification for Swinomish Indian Tribal Communities. Prior to the finalization of the 2021 MSGP, the Swinomish Indian Tribal Community denied 401 certification to EPA. The Swinomish Department of Environmental Protection has since vacated the aforementioned denial. Based on this action, EPA will correct two parts of the permit.
- a. EPA will delete the text in Part 9.10.6.6 and replace it as follows:
9.10.6.6 Swinomish Indian Tribal Community
No additional requirements.
 - b. EPA will also correct the table in Appendix C, Part C.10 deleting “(facilities on the Swinomish Reservation must contact EPA Region 10 for an individual permit)” so that it will instead read as follows:

Master Permit Number	Areas of Coverage/Where EPA Is Permitting Authority
WAR05I000	Indian country lands within the State of Washington

14. NOI Form Typo. As described in the 2021 MSGP ICR Supporting Statement and included in the estimated respondent burden and in the corresponding electronic form, EPA meant to include a question related to PAH indicator monitoring applicability on the paper NOI form and inadvertently left it out. Specifically, EPA will modify Appendix G to include the following question in Part D: “Will you have stormwater discharges from paved surfaces that will be initially sealed or re-sealed with coal-tar sealcoat where industrial activities are located during coverage under this permit?” The form already includes instructions related to this question, so EPA is not editing the associated form instructions.

¹ As of the date of this memo, EPA has not received any Notices of Intent from any facilities to operate on Lummi Nation’s Lands. Therefore, there are no impacted permittees.