

NPDES PERMITTING PROGRAM

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

ISSUE SUMMARY:

The EPA is responsible for overseeing the National Pollutant Discharge Elimination System (NPDES) program, the largest environmental permitting program in the U.S., issuing over 10,000 permits a year and covering about 800,000 facilities. The program authorizes about 15,000 municipal wastewater treatment facilities, around 60 categories of industrial dischargers, and almost 300,000 municipal, industrial, and construction stormwater dischargers. The EPA has authorized 47 states and one territory (U.S. Virgin Islands) to administer the NPDES program. The NPDES Program includes the Pretreatment Program, which ensures that non-domestic discharges to the municipal sewer system do not interfere with treatment plant operation (e.g., harm biological treatment) or “pass-through” the municipal treatment plant untreated.

KEY POINTS:

- The complexity and breadth of the NPDES program often present scientific, policy, and legal challenges from all types of stakeholders.
- The EPA continues to collaborate with the permitting authorities (states) to identify opportunities to enhance the integrity and timely issuance of NPDES permits.
- After program improvements, between March 2018 and March 2021, the backlog of the EPA-issued new and existing NPDES permits decreased from 106 to 24 and 547 to 339, respectively. Though the new and existing permit backlogs decreased by 82 and 208, respectively, the program resolved more than 708 new and existing permits in this timeframe (i.e., permits that never became backlogged).
- The Supreme Court looked at whether the county of Maui, Hawaii requires an NPDES permit for discharging its treated wastewater into underground injection wells, because the discharges were eventually reaching a water of the U.S. The EPA plans to publish an implementation guidance to memorialize the Supreme Court decision.
- Nutrient pollution continues to be national problem – it’s widespread, costly, and it impacts the environment and public health. The EPA’s Office of Water is working with stakeholders to address nutrients at a watershed basis.

ONGOING/UPCOMING REVIEWS FOR FY2024:

- The permit term cannot exceed five years. Permitting authorities can provide permit coverage by issuing an individual permit, a unique permit for each discharger, or a general permit, a permit that covers a large number of similar dischargers. Most permitted activities, about 94%, are covered by a general permit.
- The EPA HQ writes three general permits, which are issued by the Regions: the Multi-Sector General Permit (MSGP) for industrial stormwater, the Pesticide General Permit (PGP) for discharges from pesticide applications to waters of the U.S., and the Construction General Permit (CGP) for stormwater discharges from construction sites of one acre or more.
 - The final 2021 MSGP was signed on Jan 15, 2021, and became effective March 1, 2021. The EPA is currently working on the permit renewal.

- The proposed 2026 PGP was signed in November 2023. The 2026 PGP will be issued in December 2024 and replace the 2021 PGP when it expires on October 31, 2026.
- The 2022 CGP became effective on February 17, 2022, and therefore expires in February 2027. The EPA started working on the CGP renewal in calendar year 2024.
- In addition, the EPA HQ is developing the Wildfire General Permit (WGP) which is a new general permit to cover discharges from the aerial application of long-term fire retardants and water enhancers. The EPA plans to propose the draft WGP for public comment in Fall of 2024 and finalize in Fall of 2025.

KEY EXTERNAL STAKEHOLDERS:

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| <input checked="" type="checkbox"/> Congress | <input checked="" type="checkbox"/> Industry | <input checked="" type="checkbox"/> States | <input checked="" type="checkbox"/> Tribes | <input checked="" type="checkbox"/> Media | <input checked="" type="checkbox"/> Other Federal Agency |
| <input checked="" type="checkbox"/> NGO | <input checked="" type="checkbox"/> Local Governments | <input checked="" type="checkbox"/> Public | | | |

MOVING FORWARD:

- The EPA continues to deliver trainings and provide technical assistance to build permit writer capacity regarding whole effluent toxicity, stormwater, combined sewer overflows (CSOs), emerging contaminants and nutrients.