Industrial Stormwater & How it Can Affect You: The Permit Process

Hosted by: UMB Environmental Law Clinic, Bluewater Baltimore, and Chesapeake Legal Alliance
Co-Sponsored by: Community Law Center
Zoom Logistics

- To join audio by phone:
  
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- Type your questions using the questions button
- This webinar is being recorded

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Introductions
Logistics

- How long will the presentation take?
- Where can questions be submitted?
- Will these slides be available after the presentation?
Goals

• Define Industrial Stormwater
• Define the Clean Water Act and the Permit Process
• Understand Community Impacts
• Learn the Importance of Community Action
• Learn How to Take Part in the Permit Process
Agenda

1. Industrial Stormwater & Baltimore
   • How does it affect public health?
   • How does it affect health of waterways?
   • How does this connect to our communities?

2. Background on the Clean Water Act
   • What is a permit?
   • How do permits help limit pollution?
   • How do we stay informed?

3. Current state of the Maryland Draft Industrial Stormwater Permit

4. Community Engagement & Involvement
   • How can a community take part in the permit renewal process?
Why comment on the industrial stormwater permit?

• Industrial stormwater is harmful to public and environmental health and disproportionately affects low-income communities and communities of color

• Affected parties can advocate for a stronger permit by submitting a comment to the Maryland Department of the Environment
Industrial Facilities & Baltimore City
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What is Industrial Stormwater?

- **Industrial activities are exposed to the weather**
- **Runoff from precipitation is contaminated**
- **Harmful materials enter local waterways**
What is an Industrial Activity?

- Heavy Manufacturing
- Coal and mineral mining and oil and gas exploration
- Hazardous waste treatment, storage, and disposal facilities
- Landfills
- Recycling facilities
- Steam electric power facilities
- Transportation facilities
- Construction sites
- Light manufacturing operations
Industrial Facilities & Baltimore City
Low Income

- Red: 95-100%
- Orange: 90-95%
- Yellow: 80-90%
- Dark Grey: 70-80%
Minority

- Red: 95-100%
- Orange: 90-95%
- Yellow: 80-90%
- Dark Grey: 70-80%
Impacts to Communities

1. Increased Exposure to Chemicals
2. Polluted Waterways
3. Unregulated Stormwater Flows
   • Property damage
4. Compounded Impacts
   • Climate change
   • Environmental Justice
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What is the Clean Water Act (CWA)?

• The objective of the CWA is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

• First major U.S. Law to Address Water Pollution
What is the Clean Water Act (CWA)?

• The CWA:
  • Prohibits the discharge of pollutants unless permitted through the National Pollution Discharge Elimination System (NPDES)
  • Includes Federal financial assistance for water related infrastructure and pollution control programs
  • Creates a policy to develop technology and research to eliminate water pollution
What is a water pollution permit?

• Water pollution permits are required for anyone discharging pollutants into waterways
  • Like a driver’s license - grants a privilege to permit holders to discharge pollutants

• Gives government agencies the ability to keep track of pollutants and enforce water quality standards
  • Without these controls, waterways would become oversaturated with pollutants leading to serious harm
What is a water pollution permit?

• Permits Include:
  • Limits on what types and quantities of pollutants that can be discharged
  • Monitoring Requirements
  • Reporting Requirements
  • Pollution Prevention Plans and other requirements

• In Maryland water pollution permits are issued by the Maryland Department of the Environment (MDE)
PART I. APPLICABILITY
By this permit the Maryland Department of the Environment (the Department) authorizes the discharge of stormwater associated with industrial activity to waters of the state. This authorization is only for operators located in the state of Maryland, who have submitted a notice of intent (NOI) and received written approval from the Department to discharge in accordance with the eligibility requirements and other conditions in this permit and consistent with your NOI, as on file with the Department. This authorization is pursuant to the provisions of Title 9 of the Maryland Code, Annotated Code of Maryland, and the provisions of the Federal Clean Water Act (CWA), 33 U.S.C. §1251 et seq., and implementing regulations 40 CFR Parts 122, 123, 124, and 125. “You” and “You” are used in this permit to refer to the permittee or the permit applicant, as the context indicates, and that party’s facility or responsibilities.

A. Geographic Coverage
This permit applies to facilities operating within the state of Maryland.

B. Facilities Covered
To be eligible to discharge under this permit you must either (1) have been covered under previous permit 02-SW or (2) have a stormwater discharge associated with industrial activity, as defined in Appendix E, from a primary industrial activity included in Appendix A or (3) be notified by the Department that you are eligible for coverage under Sector A4: Non-Classified Facilities, as defined in Appendix A or (4) be notified by the Department that you are eligible for coverage as described in Part I.E.4.

C. Limitations on Coverage
The following stormwater discharges are not eligible for coverage under this permit. Additional limitations on coverage for each sector covered under this permit are listed in Appendix D. You must determine which sector(s) your industrial activities are defined as in Appendix A to determine which additional limitations from Appendix D apply.


PART V. INSPECTIONS, MONITORING, AND REPORTING

A. Site Inspections and Evaluations
You must conduct the following inspections or evaluations at your facility in accordance with the monitoring procedures outlined in Part V.C. You must keep a copy of the documentation from all inspections and evaluations onsite with your SWPPP per Part III.C.8.g.

1. Routine Facility Inspection
At least once per quarter, you must conduct a site assessment that will review the effectiveness of the SWPPP. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is happening. The facility inspections must be documented with a checklist or other summary signed in accordance with Part II.C.2 of this permit, by qualified personnel, with at least one member of your stormwater pollution prevention team participating. The checklist must include a certification that the site is in compliance with the SWPPP and this permit, or a record of the deficiencies and necessary follow up actions. Refer to Part IV.C Corrective Action Deadlines and Part IV.D. Corrective Action Report for appropriate time frames.

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Table 5 - Sector M Benchmarks (Automobile Salvage Yards)

<table>
<thead>
<tr>
<th>PARAMETER</th>
<th>Benchmark</th>
<th>Units</th>
<th>Frequency</th>
<th>Sample Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Suspended Solids (TSS)</td>
<td>100</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Aluminum</td>
<td>0.75</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Iron</td>
<td>1.0</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Lead</td>
<td>0.082</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
</tbody>
</table>

*The benchmark values of some metals are dependent on water hardness. For these parameters, you must determine the hardness of the receiving water per Appendix C.*

<table>
<thead>
<tr>
<th>PARAMETER</th>
<th>Benchmark</th>
<th>Units</th>
<th>Frequency</th>
<th>Sample Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Oxygen Demand (COD)</td>
<td>120</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Suspended Solids (TSS)</td>
<td>100</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Recoverable Aluminum</td>
<td>0.75</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Recoverable Iron</td>
<td>1.0</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Lead</td>
<td>0.082</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Zinc</td>
<td>0.12</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
<tr>
<td>Total Copper</td>
<td>0.014</td>
<td>mg/L</td>
<td>1/quarter</td>
<td>Grab</td>
</tr>
</tbody>
</table>

*The benchmark values of some metals are dependent on water hardness. For these parameters, you must determine the hardness of the receiving water per Appendix C.*
General and Individual Permits

**General Permit**
- Covers stormwater discharges from industrial sites, construction activities, and municipal stormwater systems
- Applies to all sites that qualify as within certain industry sectors and assumes that these industry sectors require similar needs to create a more efficient permitting process

**Individual Permit**
- Covers stormwater and wastewater dischargers, or a combination of both, from individual facilities and are tailored to the individual site
Steps to Renewing a General Permit

1. Federal law requires states to regulate stormwater and other pollution through permits that must be reissued every 5 years
   • When a water pollution permit is expiring MDE drafts a new permit

2. MDE releases a draft of the permit that triggers a public notice and comment period (90 days)
   • During this period, any interested parties may submit written comments or participate in public hearings to express their views on the permit
General Permit Renewal Procedures

3. At the end of the notice and comment period MDE reviews all comments and based on the evaluation of the comments, decides whether to issue the permit or make any changes.

4. The Final Permit is issued and those who submitted comments are notified.
   • Individuals and organizations who participated in the public comment process may appeal the Final Permit.
How do we stay informed about permits?

• The MDE website include information on new permits and notices on Draft Permit Renewals
• MDE also allows individuals and organizations to subscribe to an email newsletter that provides updates regarding MDE’s permits
How do we track permits once they are operating?

• Permit holders are required to keep track of pollution and report it through discharge monitoring reports

• Reports are made available through the EPA’s Web Tool, Enforcement and Compliance History Online (ECHO)

• Includes pollution reports, facility information, and enforcement actions
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Maryland General Permit For Discharges of Stormwater Associated With Industrial Activity

• Previous Discharge Permit No. 12-SWA
  • Effective January 1, 2014 - December 31, 2018

• New Draft Discharge Permit No. 20-SWA
  • Released for comment January 14, 2021

• Important Permit Sections:
  • Part II - Approval Requirements
  • Part III - Stormwater Management Requirements
  • Part IV - Corrective Actions
  • Part V - Inspections, Monitoring, and Reporting
Part II - Approval Requirements

• Establishes how to obtain authorization to discharge
• Deadlines for coverage
• Notification requirements
Part III - Stormwater Management Requirements

• Chesapeake Bay Restoration Requirements
• Control Measures and Pollution Limits
• Creation of a Stormwater Pollution Prevention Plan
Part IV - Corrective Actions

- Conditions that require review and revision to
  - (1) eliminate a problem and
  - (2) determine if modifications to the facility are necessary
- Corrective action deadlines and reporting requirements
- Effect of corrective action
Part V - Inspections, Monitoring, and Reporting

- Site inspections and evaluations
- Industry specific pollution benchmarks monitoring requirements
- Monitoring procedures
- Records retention
Impacts to Communities

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What is a comment?

- A comment is written, or oral testimony provided to MDE that provides information regarding a draft permit or new permit.
- This information can include:
  - Personal narratives
  - Technical data
  - Solutions
- Comments are required to be considered in MDE’s decision-making – providing an advocacy tool for communities to change how pollution is controlled.
Why should the public write comments?

- For the Public:
  - Increases community understanding of local pollution threats
  - Gives opportunity to have the community’s voices heard
  - Allows for participation by those that are directly affected
  - Fosters relationship with decision makers and creates potential for greater community engagement in the future

- For the agency (MDE):
  - Provides information for MDE that they may not have considered
  - Helps to create informed decision making
  - Serves as a check to agency power
Comment Strategies

• Strong comments act to identify problems faced by communities, explain the importance of a stronger permit, and present new information to MDE that helps them evaluate the permit.

• Three General Types
  • Narrative Comment
  • Legal/Policy Comment
  • Technical Comment
Example Narrative Comment:

My name is [insert name] and I am submitting the following comment on the Maryland Department of the Environment’s (“MDE”) Draft General Permit For Discharges of Stormwater Associated With Industrial Activity Permit No. 20-SW (“Permit”).

The draft permit does not adequately protect citizens of Baltimore from the dangers and hazards associated with industrial stormwater. As a resident of Baltimore City, my community is surrounded by clusters of industrial facilities. MDE records indicate that there are 112 of these facilities operating within Baltimore City. Many of these facilities have a documented history of pollution level exceedances and noncompliance with permit terms.

The industrial stormwater permit must be strengthened to better protect Baltimore’s communities by taking into consideration the disproportionate harms that affect the city including flooding and cumulative environmental impacts. The new permit must incorporate stricter deadlines for polluters to take corrective action and increased enforcement and inspection from MDE. In addition, the Chesapeake Bay Restoration programs must be strengthened to not only protect our waterways but to prevent industrial stormwater from leaving the facility and entering my property.
How to Draft a Comment

• Introduce yourself
• Indicate your position towards the permit
• Explain how the permit and pollution will directly impact you and your community
• Identify issues you have faced and areas where you think it should be strengthened to help you and your community

• Tips:
  • An effective comment should be clear, concise, relevant and provide specific examples of your experience
  • Provide a new perspective for MDE and keep the comment focused on what issues are most important to you
Provided Resources:

- **Comment Template:**
  - An outline comment that you can use to streamline your comment with areas you can fill in to provide your feedback and contact information to know where to send it.

- **How to Access ECHO:**
  - Instructions to access ECHO and find out for yourself what polluters are in your area.

- **Other resources:**
  - MDE’s permit page and email sign-up.
  - Information to find your state and local representatives.
  - PowerPoint presentation.
Important Dates

• Public Hearing: March 3\textsuperscript{rd} from 5-7pm
  • Virtual meeting via GoToWebinar
  • Sign-up via registration link

• Written Comment Due Date: April 19\textsuperscript{th}
  • Mail:
    Attn: Paul Hlavinka, Industrial Stormwater Permits Division
    Maryland Department of the Environment, Water and Science Administration,
    1800 Washington Blvd., Ste. 455, Baltimore, MD 21230-1708
  • Email
    • Paul.Hlavinka@Maryland.gov
Next Steps

• Complete the comment template and submit comment to MDE by April 19th
  • How has local industrial stormwater pollution potentially affected you?
• Take part in the public hearing on March 3rd
• Talk to your local representatives
Contact Information

• University of Maryland, Environmental Law Clinic
  • Abigail Doane Rodgers (adoane@clinic.law.umaryland.edu)
  • Colin Hughes (colinhughes@clinic.law.umaryland.edu)

• Chesapeake Legal Alliance
  • Patrick DeArmey (patrick@chesapeakelegal.org)

• Blue Water Baltimore
  • Alice Volpitta (avolpitta@bluewaterbaltimore.org)

• Community Law Center
  • Shana Roth-Gormley (shanar@communitylaw.org)