

States Seek PFAS Requirements in Industrial Stormwater General Permit

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If three states have their way, EPA's general permit for industrial stormwater discharges will impose obligations relating to per- and polyfluoroalkyl substances (PFAS). Colorado, Massachusetts, and New Mexico submitted comments on the [draft Multi-Sector General Permit](#) (MSGP) that ask EPA to require permitted industrial facilities to monitor PFAS in their stormwater discharges and to develop practices intended to minimize the potential for PFAS to be introduced into stormwater. The comment period on the draft MSGP closed on June 1, and it remains to be seen in the coming months whether EPA will adopt the states' suggestions.

Both [Massachusetts](#) Department of Environment and [New Mexico](#)—two states where the new MSGP will apply—request that the MSGP require permitted facilities to monitor their stormwater discharges for PFAS. Massachusetts proposes that EPA should require annual monitoring of, at a minimum, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) at facilities in any of the following sectors covered by the MSGP:

- Sector B – Paper and Allied Products
 - Sector C – Chemical and Allied Products Manufacturing
 - Sector D – Asphalt Paving and Roofing Materials and Lubricant Manufacturing
 - Sector K – Hazardous Waste Treatment Storage, or Disposal Facilities
 - Sector L – Landfills, Land Application Sites and Open Dumps
 - Sector N – Scrap Recycling and Waste Recycling Facilities
 - Sector S – Air Transportation
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- Sector V – Textile Mills, Apparel, and Other Fabric Products
- Sector W – Furniture and Fixtures
- Sector Y – Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
- Sector Z – Leather Tanning and Finishing
- Sector AA – Fabricated Metal Products
- Sector AC – Electronic and Electrical Equipment and Components, Photographic and Optical Goods

New Mexico, by contrast, asks EPA to require all facilities that are also subject to TRI reporting requirements under EPCRA to conduct benchmark monitoring for PFAS. New Mexico, however, does not specify which PFAS compounds would be subject to monitoring or how EPA should set the benchmarks, exceedances of which would require facilities to improve their stormwater best management practices (BMPs) to reduce PFAS in their discharges. TRI, or the Toxic Release Inventory, was expanded by the PFAS Act of 2019 to require reporting for 172 PFAS when present at a TRI facility above 100 pounds, as we previously reported [here](#).

[Colorado](#) would have EPA impose a series of requirements relating to the use, storage, and disposal of aqueous film forming foam (AFFF)—used in firefighting—and other materials containing PFAS. Permittees would have to, among other things, identify alternatives to using AFFF where feasible, develop procedures for preventing and minimizing releases of AFFF to stormwater when it is used, and contain and dispose of AFFF to prevent its introduction to surface water and wastewater. Colorado would also require permitted facilities to identify locations where PFAS-containing materials are stored and to ensure that materials containing PFAS are not introduced to wastewater or surface water.

EPA's adoption of the states' positions would have nationwide implications. The MSGP covers industrial stormwater discharges in the jurisdictions where EPA is the NPDES permitting authority, including Massachusetts, New Hampshire, Idaho, New Mexico, the District of Columbia, Puerto Rico, and tribal lands. Where state agencies administer the NPDES program, states typically use the federal MSGP as a model for developing state general permit terms. EPA will likely issue the final MSGP sometime this fall.

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