

National Tribal Water Council and EPA Monthly Conference Call
Wednesday, October 9, 2024
2:00 – 3:30 P.M. ET

SUMMARY NOTES

I. Introductions (Elaine Wilson, ITEP)

NTWC: Ken Norton (Chair, R9); Chauncey Means (R8, Vice Chair); Brian Patterson (R2); Rainee Tetreault (R4); Shaun Livermore (At large, R4); Nancy Schuldt (R5); Celeste Hockings (At large, R5); Yolanda Barney (Navajo Nation, R9); Scott Hauser (At large, R10); Eric Morrison (Alaska, R10); Ann Wyatt (Alaska, R10)

EPA: Holly Galavotti; Lauren Mosesso; Margaret Green; Liana Prudencio; Greg Schaner; Danielle Anderson; Nizanna Bathersfield; Margot Buckelew; Rebecca Christopher; Daniel Consigli; Alicia Denning; Rory Hytrek; James Ray; Gabriella Neusner; Amy Weber

ITEP: Elaine Wilson; Elaina Doral

II. NTWC Updates (Ken Norton, NTWC)

Chair Norton provided an overview of the topics discussed during the previous NTWC-only call.

- **Joint NCAI/NTWC Webinar on Tribal Reserved Rights Rule**

The National Congress of American Indians (lead), in conjunction with NTWC, will be holding two 90-minute webinars on the Tribal Reserved Rights Rule in mid-November. Chair Norton and Nancy Schuldt (R5) will be presenters and possibly Erica Fleisig, EPA.

- **Letter to Roselyn Tso, IHS, Requesting for Tribal Participation**

Chair Norton completed a draft letter to Roselyn Tso, IHS Director, requesting for tribal participation in the Facilities Appropriations Advisory Board (FAAB). The letter includes a request for tribal input on the proposed actions listed in FY 25 Congressional budget request. The letter will be transmitted the week of Oct 14, 2024.

- **NTWC Priorities Brief for NTC Meeting**

Chair Norton is working on a list of NTWC's priorities (3-4 items) as preparation for the National Tribal Caucus and tribal partnership groups meeting on October 30. The priorities briefing paper will be completed this Friday, October 11.

- **NTWC/EPA Fall Meeting Action Items**

NTWC reviewed the list of action items created during the fall in-person meeting.

III. EPA Office of Water Discussion: Reissuance of EPA's Multi-Sector General Permit (MSGP) and Other General Permit Status Updates (Lauren Mosesso, Maggie Green, Liana Prudencio, and Greg Schaner)

Reissuance of EPA's Multi-Sector General Permit

Lauren Mosesso provided information on the consultation and coordination with federally recognized Indian Tribes on the renewal of the National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activities under the Clean Water Act (CWA).

The Clean Water Act requires a NPDES permit for stormwater discharges from certain industrial activities. EPA is typically the NPDES permitting authority in Indian Country and facilities with stormwater discharges from certain industrial activities in Indian Country need permit coverage under EPA's MSGP or under an individual NPDES permit issued by EPA. Industrial facilities intending to seek coverage under EPA's MSGP must submit a Notice of Intent certifying that they have met the permit's eligibility conditions and that they will comply with the permit's requirements. For more information, visit: <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities>.

There are approximately 2,000 industrial facilities that are currently covered under the 2021 MSGP in areas where EPA is the NPDES permitting authority. As of April 2024, there are approximately 62 facilities currently permitted under EPA's 2021 MSGP in Indian country.

Below are the proposed changes to the 2026 MSGP:

- Focused modifications to monitoring based on data reported under the 2021 MSGP to ensure that results are representative of the monitored activity; and
- Added monitoring requirements for facilities in industrial categories known or suspected to discharge per- and poly-fluoroalkyl substances (PFAS); and
- Added permit language to ensure facilities use the best available data when designing stormwater control measures and developing Stormwater Pollution Prevention Plans.

Tribal consultation will end on October 25, 2024. EPA plans to release the draft 2026 MSGP for public comment by the end of 2024. Tribes will be notified of the date to submit written comments on the proposed permit. EPA intends to issue the final 2026 MSGP before the 2021 MSGP expires on February 28, 2026.

For more information, visit: <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities>

Other General Permit Status Updates

Maggie Green provided an overview of general permits that include Pesticide General Permit, Construction General Permit, and Draft Wildfire General Permit.

EPA Pesticide General Permit regulates the point source discharges of biological and chemical pesticides that leave residue to waters of the U.S. The 2026 Pesticide General Permit will be finalized in December 2024 and have an effective date of October 31, 2026. For more information, visit: <https://www.epa.gov/npdes/pesticide-permitting-proposed-2026-pgp>

EPA Construction General Permit covers discharges from "construction activities." EPA anticipates issuing a modification to the 2022 Construction General Permit, which is planned to be finalized and effective in March 2025. EPA expects that the 2027 Construction General Permit proposal will be published in July 2025 and EPA plans to finalize the permit in October 2026 with an effective date of February 2027. For more information, visit: <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>

EPA Draft Wildfire General Permit will cover discharges associated with the aerial application of wildland fire chemicals to waters of the U.S. Fire agencies who are responsible for fire incident mitigation and management where the aerial application of fire chemicals occurs will be eligible for permit coverage everywhere EPA is the NPDES permitting authority. EPA plans to propose the draft permit in early 2025 and finalize the permit in late 2025/early 2026.

Questions/Comments

Chair Norton discussed the current processes under the CWA § 401 certification and its recent revisions. He asked if tribes with § 401 authorities can request for direct consultation on any activity that has impacts on tribal waters. Liana Prudencio replied that tribes with treatment as a state status for § 401 can grant, waive, or deny certification of proposed federal permits depending on the compliance with water quality requirements. Additionally, tribes with § 401 authorities may deny certification for general permits and issue individual grants of certification with conditions.

Chauncey Means asked about the industrial discharges most seen in Indian country. He noted that there are timber mills in his area. Alicia Denning replied that most stormwater discharges come from mineral mining, coal mining, and concrete. She noted that tribes may reach out to their regions for more specifics on the facilities and its locations.

Holly Galavotti recommended looking at the general permit's appendices to see the conditions that tribes have included in the permit. EPA plans to conduct a training and presentation at the EPA Region 9 conference.

IV. Consultation Opportunities/Announcements

EPA Consultation Opportunities

- **National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activities under the CWA.**
 - **Consultation period closes Oct. 25.**
 - Under the CWA, specific categories of industrial activities listed in 40 CFR 122.26(b)(14) must obtain coverage under an NPDES permit for stormwater discharges. EPA is typically the NPDES permitting authority in Indian country. As a result, facilities with stormwater discharges from industrial activities in Indian country need permit coverage under EPA's MSGP or under an individual NPDES permit issued by EPA. Industrial facilities intending to seek coverage under EPA's MSGP must submit a Notice of Intent (NOI) certifying that they have met the permit's eligibility conditions and that they will comply with the permit's requirements. More information about the MSGP can be found at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities>.

Announcements/Upcoming Meetings

- **National Tribal Operations Committee (NTOC)** meeting (NTC/EPA) will be Oct. 29th
- **National Tribal Caucus (NTC)/Office of Water** meeting will be Oct. 30th
- **Open Applications for FY2025 Tribal Nonpoint Source Management (319) Grants**
The EPA issued the [FY2025 Funding Opportunity for Indian Tribes and Intertribal Consortia for Nonpoint Source Management Grants Under Clean Water Act Section 319](#) on September 23, 2024. Federally recognized Tribes with treatment-as-a-state approval under Clean Water Act Section 319 are eligible to apply; eligibility information and additional information on this competition is available on the [EPA Tribal NPS website](#). As in past years, the funding available through this funding opportunity is to support Tribal projects focused on implementing on-the-ground best management practices that will help protect or restore waters from nonpoint sources of pollution. Applicants may request up to \$125,000 in federal 319 funds through this solicitation. As part of the EPA's effort to increase equity within the NPS program, a portion of

competitive grant funding will be reserved for Tribal competitive grant applicants that have not been awarded a competitive grant under this solicitation in the past 5 years. Applications are due December 11, 2024. Answers to [frequency asked questions](#) for this grant are available on the [EPA's Tribal NPS website](#); additional questions may be submitted to tribal319grants@epa.gov

Key Dates:

- **October 9, 2024, 3:30 – 4:30pm EST:** Informational webinar #1. ([Register](#))
 - **October 15, 2024, 12 – 1pm EST:** Informational webinar #2. ([Register](#))
 - **November 26, 2024:** Deadline for questions from prospective Tribal applicants about the FY2025 Notice of Funding Opportunity. Questions may be submitted to tribal319grants@epa.gov.
 - **December 11, 2024: *Application Deadline*** Applications must be submitted electronically to the EPA through [Grants.gov](#) by 11:59pm EST in order to be considered for funding. Late applications will not be considered for funding.
 - **February/March 2025:** The EPA anticipates announcing final selections under this competition in late winter 2025.
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- **EPA Announces Final Lead and Copper Rule Improvements**

On October 8th, the Biden-Harris Administration issued a final rule requiring drinking water systems across the country to identify and replace lead pipes within 10 years. The Lead and Copper Rule Improvements (LCRI) also require more rigorous testing of drinking water and a lower threshold requiring communities to take action to protect people from lead exposure in water. In addition, the final rule improves communication within communities so that families are better informed about the risk of lead in drinking water, the location of lead pipes, and plans for replacing them. This final rule is part of the President's commitment to replace every lead pipe in the country within a decade, making sure that all communities can turn on the tap and drink clean water. <https://www.epa.gov/ground-water-and-drinking-water/lead-and-copper-rule-improvements>
 - **EPA Releases Final PFAS Aquatic Life Criteria and Benchmarks**

EPA completed another commitment in its PFAS Strategic Roadmap, finalizing science-based water quality concentrations for 10 PFAS that will help states and Tribes protect fish and other aquatic life from these chemicals. The levels, referred to as water quality criteria and benchmarks, are not regulatory and are not required. States and Tribes can consider using them to develop water quality standards which inform the implementation of other Clean Water Act programs, like wastewater discharge permits.

The EPA's final PFOA and PFOS aquatic-life criteria recommendations, published under Clean Water Act Section 304(a)(1), are based on the latest scientific knowledge about protecting freshwater fish and other organisms from the effects of short-term and long-term exposure to PFOA or PFOS. The best available science indicates that PFAS levels in the environment appear to be significantly below levels that would affect aquatic life, except in areas where there is known contamination such as Superfund sites. This is reflected in the EPA's final aquatic life criteria.

Like criteria, aquatic life benchmarks are science-based concentrations above which exposure to certain pollutants negatively impact aquatic life. However, the EPA develops informational benchmarks under Clean Water Act Section 304(a)(2) when there are limited data on pollutants in freshwater or saltwater and the agency is not able to recommend water quality criteria. The

agency derived benchmarks to protect aquatic life from short-term exposures to eight individual PFAS in freshwaters (PFBA, PFHxA, PFNA, PFDA, PFBS, PFHxS, 8:2 FTUCA, and 7:3 FTCA). The agency also developed aquatic life benchmarks for short-term exposure to PFOA and PFOS in saltwater environments.

- View the EPA's [final PFAS aquatic life criteria and benchmarks](#).

- **EPA Announces Proposed MPRSA General Permit authorizing the transport and ocean disposal of marine mammal and sea turtle carcasses in ocean waters**

Public Comment period, 10/8/24 – 12/9/24, see [Federal Register](#) for submitting comments. The general permit would authorize the transport and disposal of marine mammal and sea turtle carcasses in ocean waters for a seven-year term. Permit authorization is available for any officer, employee, agent, department, agency, or instrumentality of Tribal, federal, state, or local unit of government, as well as any Marine Life Health and Stranding Response Program Stranding Agreement Holder, and any Alaska Native, who already may take a marine mammal or sea turtle under the *Endangered Species Act* and/or *Marine Mammal Protection Act*. The permit is primarily intended to be used for disposal of marine mammal or sea turtle carcasses that threaten public health, for example, after discovery of a carcass washed ashore in an advanced state of decay, and there is not another viable land-based alternative for carcass disposal other than disposal in ocean waters.

The EPA issued a general permit for such transportation and disposal of marine mammal carcasses in 2017 and is re-issuing the permit because that general permit expired on January 4, 2024. The proposed general permit will be identical to the 2017 permit, except for including general authorization for disposal of sea turtle carcasses and authorization for disposal of marine mammal carcasses in the ocean waters of Puget Sound. Authorizing ocean disposal of marine mammal and sea turtle carcasses through this general permit will minimize reliance on emergency permitting on a case-by-case basis.

- For more information on this permit, visit: www.epa.gov/ocean-dumping/ocean-disposal-marine-mammal-carcasses
- For more information on this permit, contact Cheryl Zulick at Zulick.Cheryl@epa.gov.

- **EPA released three new tools to support small, rural, and Tribal communities that rely on lagoons for their wastewater management.**

EPA's new tools are intended to help local decisionmakers effectively and efficiently protect public health and the environment, address compliance challenges, and improve asset-management planning. The [new resources](#) include:

- The "First Stop Toolbox for Lagoons" identifies technical, financial, and regulatory support resources in a user-friendly web tool. This tool will help lagoon operators and technical assistance providers assess operations and compliance challenges in their lagoons, and in turn, help communities resolve these challenges on their own.
- The "Small Lagoon Communities Economic Streamlining Tool" and the "Individual Lagoon Tool" help states, authorized Tribes, and communities determine whether a [water quality standards \(WQS\) variance](#) is an appropriate step to take when a small community is experiencing compliance challenges related to ammonia. Both tools are accompanied by an implementation document: "Applying the EPA's Economic Analysis Tools to a WQS Variance for Ammonia for Small Lagoon Communities."

These tools were developed as priority actions under the [EPA's 2022-2026 Lagoon Wastewater Treatment Action Plan](#), and respond to needs identified by state co-regulators and lagoon communities. Learn more about lagoons in videos from EPA's [Bruno Pigott](#) and [Kathryn Kazior](#).

- **Climate Resilience Training for the Northern Great Plains Water Sector, Nov. 19 & 21, 2024**
The EPA Creating Resilient Water Utilities (CRWU) initiative is providing a series of two FREE webinars for drinking water, wastewater, and stormwater utility owners and operators, as well as other water sector stakeholders in Montana, Nebraska, North Dakota, South Dakota, Wyoming, and several Tribal Nations. These webinars focus on building resilience to impacts from drought, wildfires, and flooding, as well as identifying and implementing adaptation options, and utility infrastructure financing.

Register by November 12, 2024:

https://gdit.zoomgov.com/meeting/register/vJltde6urDgiGovdhhXMHiqr13q_5sTtSdg?utm_medium=email&utm_source=govdelivery#/registration

V. **Closing** (Ken Norton, NTWC)

VI. **The NTWC's next monthly call is scheduled for November 13, 2024**