



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OCT 31 2006

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Extension of Low Enforcement Priority for the NPDES Stormwater Multi-Sector General Permit for Industrial Facilities

FROM:

Granta Y. Nakayama
Assistant Administrator

A handwritten signature in black ink, appearing to read "Granta Y. Nakayama", written over the typed name.

TO: Regional Administrators, Regions I-X

The NPDES Stormwater Multi-Sector General Permit for Industrial Facilities (MSGP) expired on October 30, 2005. This left currently unpermitted industrial facilities in the 30 industrial sectors listed in the expired MSGP without the ability to gain coverage under a permit in those States, Territories and tribal lands where the Environmental Protection Agency (EPA) is the permitting authority. On October 28, 2005, the Office of Enforcement and Compliance Assurance (OECA) issued a memorandum stating that civil enforcement under the Clean Water Act (CWA) for lack of permit coverage against industrial stormwater dischargers would be a low enforcement priority for six months or until EPA published a new MSGP, whichever came first. The deadline was extended an additional six months by a memorandum issued on April 28, 2006.

EPA's Office of Water issued a proposed MSGP on December 1, 2005. The comment period on the proposed permit closed on February 16, 2006. EPA received a large number of comments in that period. Because responding to these comments will require significant time and resources, EPA does not anticipate that the final permit will be published before the previous low enforcement priority memorandum expires on October 31, 2006. Accordingly, this memorandum extends this low enforcement priority.

OECA will continue to implement enforcement activities as described in the original October 28, 2005, memorandum. Accordingly, this low enforcement priority does not apply to criminal violations or to situations where there are egregious circumstances, such as those resulting in serious actual harm or which may present an imminent and substantial endangerment to public or the environment, or where no control measures are in place to protect public health or the environment. OECA also reserves

the right, at any time, to initiate an appropriate enforcement response with respect to a specific discharger should circumstances warrant.

Under this low enforcement priority approach, OECA will not pursue actions against industrial dischargers that lack a permit but are meeting the obligations that would have been imposed by the expired MSGP. These obligations include, but are not limited to, Stormwater Pollution Prevention Plan development and implementation, proper installation and maintenance of storm water control measures, and any additional sector-specific requirements outlined in Section 6 of the expired MSGP.

This low enforcement priority approach for industrial facilities will terminate in six months on April 30, 2007, or sixty days after publication of a new MSGP, whichever comes first. If you have any questions about this matter please, contact me or have your staff contact Mark Pollins, Director of the Water Enforcement Division at (202) 564-4001 or Kelly Brantner, Attorney-Advisor in the Water Enforcement Division at (202) 564-9933.

cc: Benjamin H. Grumbles, Assistant Administrator, Office of Water
Roger R. Martella, Acting General Counsel