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Current Developments in Storm Water Permitting and Enforcement

PRESENTED BY: DANIEL S. SCHLECK
April 22, 2010 “Earth Day”

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When contaminated with site materials, stormwater affects water quality



What is Stormwater?

Stormwater is site runoff
or run-on from:

- Rain
- Snow, sleet, hail
- Snowmelt



When contaminated with site materials, stormwater affects water quality



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Federal Stormwater Regulation

- The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution.
- Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972.
- As amended in 1977, the law became commonly known as the Clean Water Act (CWA).





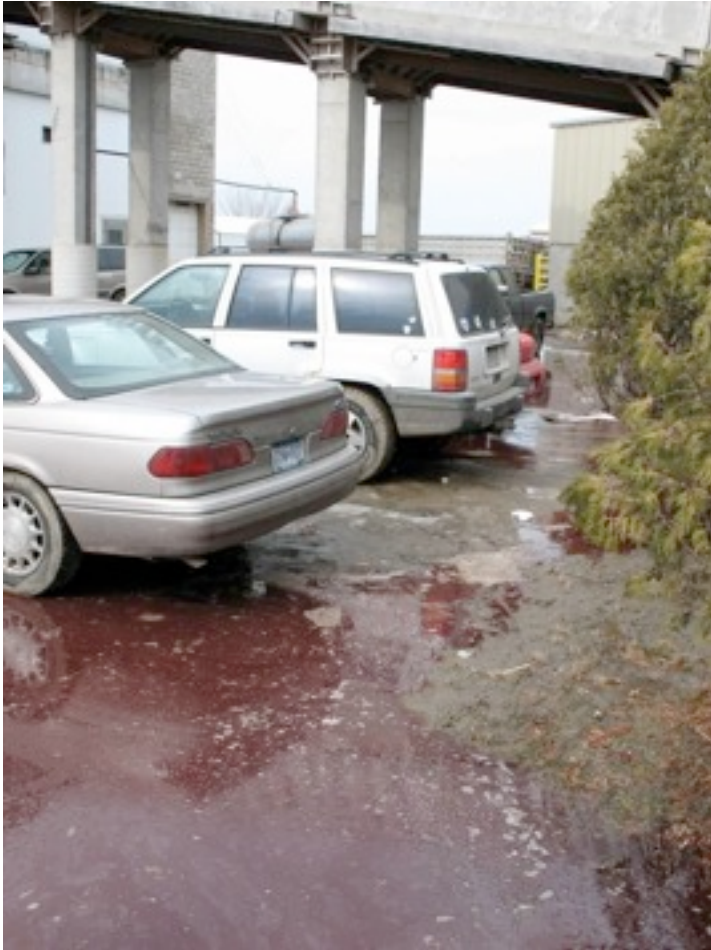
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The Clean Water Act of 1977

- Established the basic structure for regulating pollutants discharges into the waters of the United States.
- Gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry.
- Maintained existing requirements to set water quality standards for all contaminants in surface waters.
- Made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions.
- Funded the construction of sewage treatment plants under the construction grants program.
- Recognized the need for planning to address the critical problems posed by nonpoint source pollution.

Problems can occur





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MPCA Stormwater Program

- Regulated in Three Parts
 - Municipal
 - Construction
 - Industrial
- Centralized Enforcement
- Encompasses Impaired Waters, TMDL and Non-Degradation Regulations





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Stormwater Program

- 1990 - EPA announced Phase I
 - 10 categories of industrial activity require a permit and construction activities over 5 acres require permit
 - Minneapolis and St. Paul need individual permits
- 1992 - EPA delegated NPDES permitting authority to MPCA
- 1992 - Phase I industrial stormwater general permit issued
 - reissued in 1997
 - expired in 2002 at the end of a 5 year term



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Stormwater Program

1999 - EPA announced Phase II changes to stormwater programs

— Industrial -

- No Exposure exclusion was broadened to all ten categories of industrial activity
- Municipally owned industrial facilities having transportation maintenance for certain activities were required to have permit coverage

— Construction –

- Disturbance over 1 acre required individual Permit

— Municipal –

- 233 More Communities are Required to Be Permitted





Approval of permit: March 23, 2010

Permit effective date: April 5, 2010



NOTICE !

The New Multi-Sector General Permit for Industrial Activities is now Effective

Approval of permit: March 23, 2010

Permit effective date: April 5, 2010

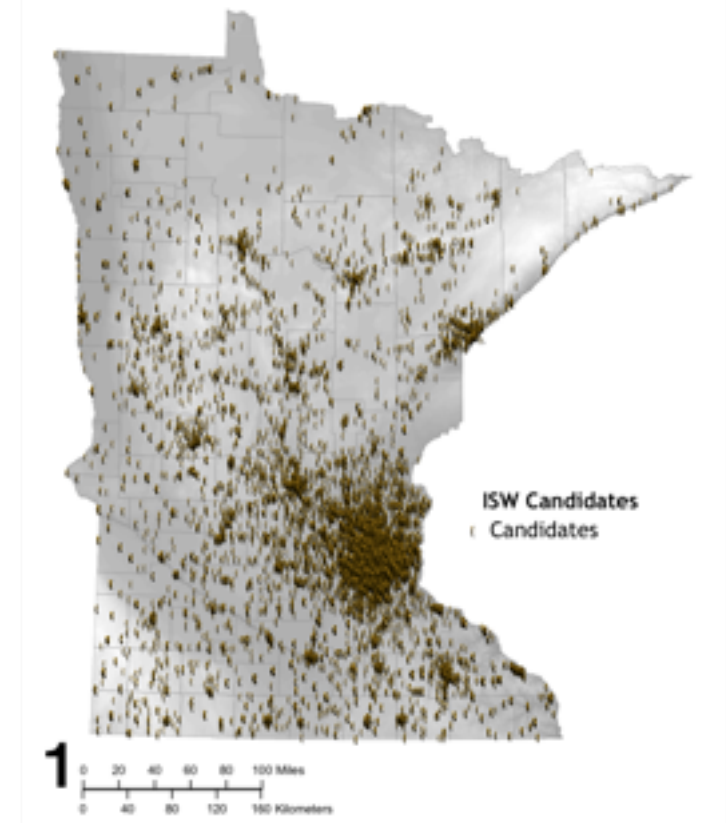
Industrial Stormwater Program: Potential Permittees

~4500 facilities currently permitted plus ~ 2000 anticipated applicants

~2000 facilities currently have No Exposure Certification plus ~ 2000 anticipated new

~200 applicants w/o coverage (due to expired permit)

Candidates for the Industrial Stormwater Permit
Based on Dun & Bradstreet data





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Industrial Stormwater Activity Categories

- Heavy manufacturing
- Light industry
- Mining/oil & gas
- Steam electric power generation
- Transportation Industries
- Hazardous Waste Treatment, Storage & Disposal Facilities
- Landfills, including industrial landfills
- Wastewater Treatment Facilities
- Recycling facilities
- Facilities subject to federal effluent limit guidelines

Note: All based on SIC Code



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Some Industrial Materials and Activities Not Required to be Addressed

- Containers and tanks **sealed** and free from deterioration
- Adequately maintained vehicles & their storage
- Completely covered/plugged dumpsters
- Materials that are stored outside that do not contaminate stormwater
- Office buildings and parking lots



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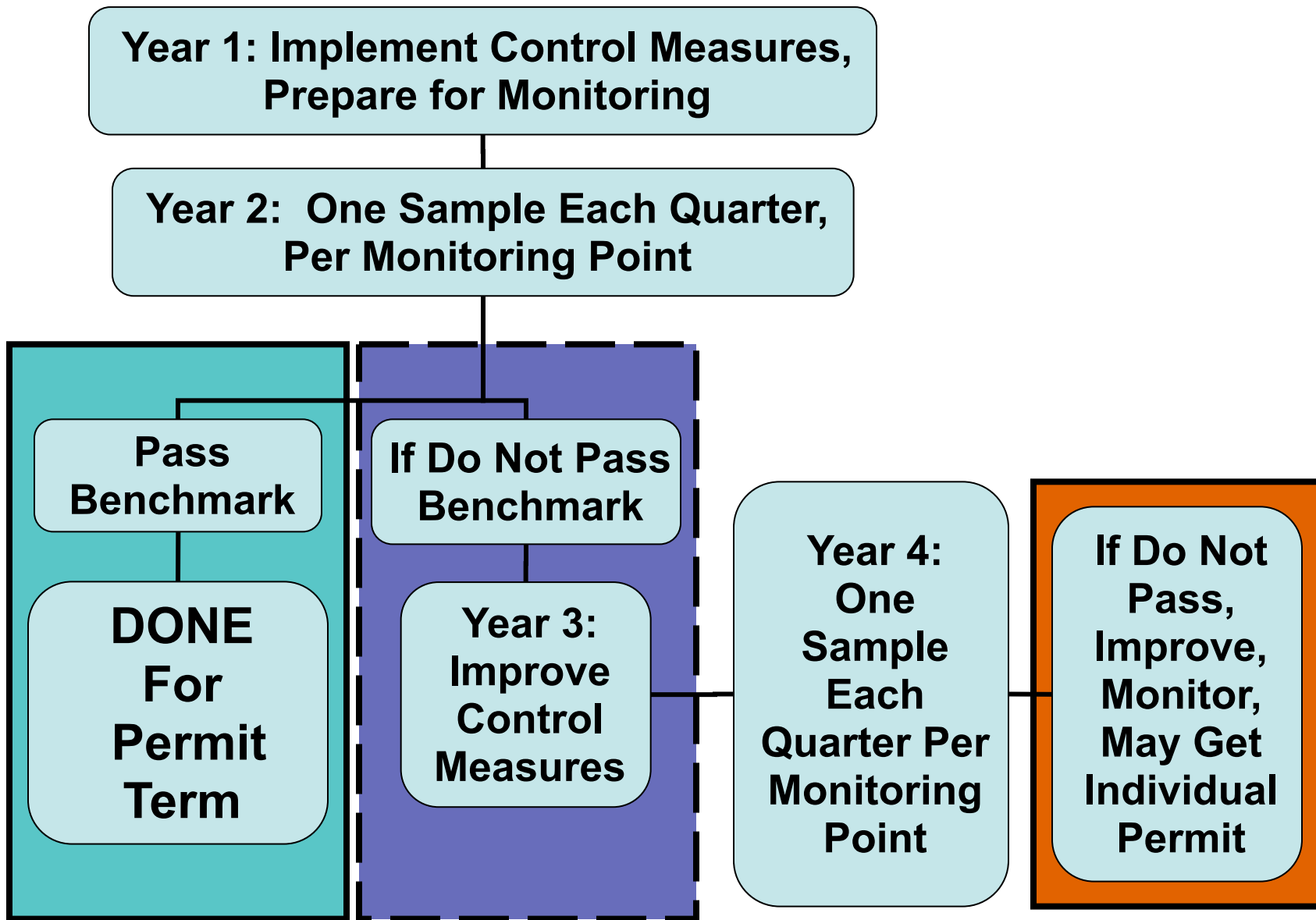


Biggest Changes

- Multi-Sector permit which has sector-specific content
- Stormwater discharge monitoring requirements
- Permit conditions to protect discharges to impaired waters
- Permit conditions that prevent degradation and protect discharges to high value waters



Benchmark Monitoring







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Group Phased Applications:

- **Sector Group 1**
 - Sectors: A, C, D, E, F, G, I, J, L, M, N, Q, Y, and AA from Now until June 7, 2010
- **Sector Group 2**
 - Sectors: H, K, O, P, R, S, Z, and AC from Now until August 6, 2010.
- **Sector Group 3**
 - Sectors B, T, U, V, W, X, and AB from Now until October 5, 2010



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Sector Group 1

Sectors Covered

- **Sector A: Timber products**
- **Sector C: Chemical and Allied Products**
- **Sector D: Asphalt Paving & Roofing Materials & Lubricant Manufacturers**
- **Sector E: Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing**
- **Sector F: Primary Metals**
- **Sector G: Metal Mining**
- **Sector I: Oil & Gas Extraction and Refining**
- **Sector J: Mineral Mining and Dressing**
- **Sector L: Landfills & Land Application Sites**
- **Sector M: Automobile Salvage Yards**
- **Sector Q: Water Transportation**
- **Sector Y: Rubber, Misc. Plastic Products, and Misc. Manufacturing Industries**
- **Sector AA: Fabricated Metal Products**



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Sector Group 2 Sectors Covered

- **Sector H: Coal Mines/Coal Mining-Related Facilities**
- **Sector K: Hazardous Waste Treatment Storage or Disposal**
- **Sector O: Steam Electric Generating Facilities**
- **Sector P: Land Transportation**
- **Sector R: Ship and Boat Building and Repair Yards**
- **Sector S: Air Transportation**
- **Sector Z: Leather Tanning and Finishing**
- **Sector AC: Electronic/Electrical Equipment and Components, Photographic and Optical Goods**

August 6, 2010



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Sector Group 3 Sectors Covered

- **Sector B: Paper and Allied Products**
- **Sector T: Treatment Works**
- **Sector U: Food and Kindred Products**
- **Sector V: Textile Mills, Apparel, and Other Fabric Products**
- **Sector W: Furniture and Fixtures**
- **Sector X: Printing and Publishing**
- **Sector AB: Transportation Equipment, Industrial and Commercial Machinery**

October 5, 2010



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No Exposure Waivers

- Some facilities may eliminate need for permit coverage if they can prove No Exposure:
 - A facility must maintain a condition of no exposure; and
 - “No Exposure” exists when “all significant materials and activities are protected from rain, snow, snow melt and run-off by a storm resistant shelter.”



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Monitoring Waivers

- Some sectors may reduce benchmark monitoring through:
 - designed infiltration treatment on site that reduces stormwater discharge to surface water
 - installation of an appropriately sized treatment pond on site





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Impaired Waters

Pre-TMDL

- MPCA must ensure that industrial stormwater discharges are not causing or contributing to an impairment
- Through the new permit, implementation of control measures (including BMPs) is the mechanism to reduce pollutant concentrations such that water quality standards are met



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Impaired Waters

Post-TMDL

- The expired permit does not have any reference to requirements for discharges to impaired waters with an approved TMDL
- Through the new permit, in addition to permit required monitoring and management of control measures, a facility is required to comply with the approved TMDL



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Non-Degradation

- Existing expired permit does not address non-degradation
- For facilities subject to non-degradation requirements, through this new permit, Permittees must achieve additional protective measures.

Non-Degradation Facility Requirements

- No Exposure or
- Install control measures designed to protect water quality to prevent further degradation.
- Will have screening questions to determine if a facility has exposure areas likely to exceed a non-degradation threshold for new and expanding facilities
- Added requirements for situations where a higher level of water quality protection is appropriate: Outstanding Resource Value Waters, wetlands, trout streams, etc.



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Enforcement

- Sites without permits
- Send a request for information letter (RFI) to the owner/operator requesting a response
- For sites that have received an RFI and have not applied for permit coverage but can obtain no exposure, issue a Letter of Warning
- No permit, enforcement response would be brought to the enforcement forum for individual consideration and follow up.



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Inspection Priorities

- Information has not been completed on application for coverage
- Complaint on site or discharge
- Information that discharges not protective of waters
- Not submitting DMRs
- Not submitting SWMRs
- Coordination with other PCA or partner programs
- Review no exposure accuracy
- Periodic sampling conducted for verification efforts of SWMR and DMR or treatment effectiveness.



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Steps to Compliance

1. Identify your facility — do you need a permit? (Pre-application)
2. Consider certifying for No Exposure and other pollution prevention opportunities (Pre-application)
3. Assess for pollutants, sources of contaminated stormwater (Pre-application)
4. Gather application materials before applying (Pre-application)
5. Create Stormwater Pollution Prevention Plan (SWPPP), choose Best Management Practices (BMPs) (Pre-application)
6. Apply for permit/No Exposure (Pre-application)
7. Follow permit/sector requirements (All years)



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Steps to Compliance

8. Install BMPs, train employees (Year 1)
9. Report annually (All years)
10. Sample/monitor your stormwater (Year 2)
11. Evaluate and submit sampling results and annual benchmark monitoring report (Year 2)
12. Modify/add new BMPs (Year 3)
(Update SWPPP)
13. Sample and monitor again if benchmarks weren't met, send in benchmark monitoring results (Year 4)
14. How to stay in compliance/how municipalities can verify compliance of facilities (All years)



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