



Must Read MMTA Government Relations

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Happy summer greetings from Beacon Hill! Here's hoping all your hard work is paying off with a successful boating season now in full swing. As we head toward, or perhaps are already in, the dog days of summer we provide a heads up of your current and pending permit obligations to the United States Environmental Protection Agency ("EPA") under the Multi Sector General Permit ("MSGP") for stormwater "discharges" associated with industrial activities. That's you marinas and boatyards, with very very few exceptions, including inland and coastal facilities doing vessel repairs, as well.

The need to file for coverage under the USEPA MSGP has also been a significant concern in the past, notably because of third party "enforcement" lawsuits initiated by environmental groups targeting marinas and boatyards who had not filed paperwork with the EPA establishing coverage under this general permit. This issue remains a concern, as third party environmental organizations can now "target" facilities with simple web searches. Also in recent news, the USEPA took enforcement against an entity which had filed for coverage under the MSGP but in their Storm Water Pollution Prevention Plan ("SWPPP"), amongst other infractions, did not adequately describe control measures necessary to minimize the impact of stormwater running offsite to nearby surface waters. (See Press Release, below). This same entity, at a second facility, also failed to include adequate site maps that contained all the required components of a SWPPP; failed to conduct annual stormwater inspections in 2011 and 2012; and failed to implement good housekeeping practices designed to maintain areas that are potential sources of pollutants. All of this led to a settlement agreement that included significant financial penalties. Please stay out of the expensive cross hairs of enforcement and call or email for help.

While our ENEWS is not intended to scare any facility operators, there is no question the USEPA's enforcement actions are. This is a good reminder of the need to adhere to the terms of coverage under the MSGP, particularly your monitoring requirements, but also how accurately you characterize your operations in your SWPPP. Take the time to review your SWPPP and ensure your on-the-ground, daily operations are still consistent with what you stated in your SWPPP, or update it as needed, and do the required monitoring.

We also want to remind you that those facilities already covered by the old and now-expired 2008 MSGP ARE REQUIRED TO SUBMIT A NEW NOTICE OF INTENT WITH THE EPA BY SEPTEMBER 2, 2015. So are new

facilities, new facility operators and facilities who gained coverage under the "No Action Assurance" grace-period while the new 2015 MSGP was being finalized.

Please also be aware that there are a few new requirements in the new 2015 MSGP so you should review carefully the final permit and guidance materials published by the EPA and available at: <http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm> or, if your eyes cross, glaze over and you want to crawl under the desk, get help.

In summary, you should have your team review your current SWPPP and update it based on the new 2015 MSGP requirements. Please also note that you should be prepared to file your Notice of Intent and, eventually, your Annual Reports online at the EPA's Central Data Exchange ("CDX"). You need to establish an account with the EPA before you can file electronic documents with them, so that should be one of your first steps in this process. We strongly recommend not posting the entire SWPPP on your website, which is one of the options for compliance, and instead claim proprietary status and file the Notice of Intent on line at the USEPA, which is the other option.

You can register at: <https://cdx.epa.gov/Registration/Terms>

We also apologize for the fact that the EPA uses similar sounding acronyms and multiple steps to accomplish what should be a straight forward filing, such as "Notice of Intent" not being the same as your local Conservation Commission filing and coverage. If we could fix that, we'd be in Fat City! Please do feel free to email or call Buchanan & Associates at any time during this process and we can discuss whether you need us or others to meet the filing deadlines and reporting requirements.

That's most of the news fit to print! Best wishes for a continued busy, safe and successful boating season in 2015.

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EPA New England News Release

Protecting Human Health and the Environment

News Release
U.S. Environmental Protection Agency
New England Regional Office
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Railway Company Settles Clean Water Act Violations in Maine and Mass.

BOSTON - Pan Am Railways has agreed to settle EPA allegations that they violated the federal Clean Water Act at two of its railyards operating in Waterville, Maine, and East Deerfield, Mass. The company has agreed to pay a fine of \$152,000 to resolve the violations.

According to allegations in a complaint filed by EPA this past winter related to the Waterville facility, Pan Am violated the conditions of the Maine "Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity," as well as federal Oil Pollution Prevention Regulations. According to EPA's complaint, Pan Am's stormwater pollution prevention plan (SWPPP) did not adequately describe control measures necessary to minimize the impact of stormwater running offsite to nearby surface waters. Debris piles were located on site without proper controls in place, and oil staining was observed throughout the site. EPA asserted that the company failed to maintain certain erosion control measures. In addition, EPA alleged that the company failed to fully implement a Spill Prevention, Control, and Countermeasure (SPCC) plan, a tool to avoid oil spills.

EPA had also filed another complaint alleging similar violations related to the company's East Deerfield, Mass. facility. EPA alleged that Pan Am violated the conditions related to stormwater management of its individual NPDES permit, and also violated the federal Oil Pollution Prevention Regulations. According to the complaint, the facility failed to include adequate site maps that contained all the required components of a SWPPP; failed to conduct annual stormwater inspections in 2011 and 2012; and failed to implement good housekeeping practices designed to maintain areas that are potential sources of pollutants. The facility also failed to stabilize an area of the site where significant erosion was occurring. In addition, EPA alleged that the company failed to fully implement its SPCC plan at this site as well.

As part of the settlement, in addition to the financial penalty, Pan Am also agreed to undertake an Environmental Culture Assessment (ECA) and develop and implement action plans to improve the current environmental culture at five of its New England facilities located in: East Deerfield, Mass., Ayer, Mass., North Billerica, Mass., Waterville, Maine, and South Portland, Maine. The goal of the ECA and action plans is to reduce the impact of rail operation on the environment.

The Clean Water Act requires that certain industrial facilities, such as railyards, have controls in place to minimize pollutants from being discharged with stormwater into nearby waterways. Each site must have a stormwater pollution prevention plan that describes the best management practices that the company will follow to prevent runoff from being contaminated by pollutants.

Without adequate on-site controls, stormwater runoff can flow directly to the nearest waterway and can cause water quality impairments such as siltation of rivers, beach closings, fishing restrictions, and habitat degradation. As stormwater flows over these sites, it can pick up pollutants, including sediment, biological and chemical oxygen demand, and oil and grease. The law also prohibits the discharge of process waste waters without a permit. Untreated wastewater discharges and stormwater runoff can harm or kill fish and wildlife and can affect drinking water quality.

Every year, thousands of gallons of oil are spilled from oil storage facilities, polluting New England waters. Even the effects of smaller spills add up and damage aquatic life, as well as public and private property. Spill prevention plans are critical to prevent such spills or, if they do occur, adequately address them.

