

Legislative Proposal to Address Pellet Loss

- Amends provisions related to industrial stormwater permits.
- Requires EPA to develop regulations, through notice-and-comment rulemaking, to establish new best practice requirements that will apply to relevant permit applications and renewals. The new requirements would not be immediately applicable to existing permits.
- EPA is required to consider OCS as an applicable best practice.
- Specifically acknowledging OCS in the language as a best practice helps promote OCS as an industry performance standard, making participation in OCS and compliance immediately relevant.
- The language intends to create a uniform federal standard with preemptive effect, following completion of the regulatory process to update permit requirements; (e.g., with respect to state permits that demand an unmeetable “zero discharge” limit with respect to stormwater).
- Controlling discharge of plastic pellets to the maximum extent practicable (MEP) is an aggressive target but it still takes into account the ability of the regulated entity to comply and establishes a platform for continued improvement. MEPs fit well with a goal of moving towards zero discharge and are iterative.
- The MEP language presently applies to municipal stormwater requirements, with the legislative text mirroring the MEP standard and applying it to pellets. Practicability of a control takes into account technical feasibility and economic feasibility.
- EPA has not defined MEP. In the municipal context, MEP analysis typically considers the condition of the receiving waters; specific local conditions; aspects of a comprehensive watershed plan; the size of the municipality; stormwater implementation schedules; ability to finance; hydrology/geology; and capacity to perform oversight and maintenance.
- All covered permits would be required to have a written stormwater pollution prevention plan containing at least several defined elements.
- Requires permittees to contractually bind their transportation contractors and agents to the best management practices established under this subsection
- EPA is required to include permit conditions that enable it to ensure compliance with statutory requirements, including reporting requirements, and other appropriate requirements that EPA has discretion to determine.