



Storm Water: Federal Compliance and Enforcement for MS4

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The Environmental Impacts of Storm Water : (why we care!)



Why is Stormwater a Problem?

Urban Runoff is the Source of Problems in:

- **34,871 miles or 13% of all Impaired Rivers and Streams**
- **1,369,327 acres or 18% of all Impaired Lakes**
- **5045 square miles or 32% of all Impaired Estuaries**

* Note: The National Water Quality Inventory (305(b) Report) describes the quality of assessed waters. Many of the nation's rivers, lakes and estuaries remain unassessed. The percentages above are based on assessed waters only.



Effects of Development on Stormwater Runoff

Increases:

- Impervious surface area
- Stormwater volume
- Stormwater velocity
- Deposition of pollutants

Decreases:

- Stormwater quality
- Ground water recharge
- Baseflow
- Natural drainage systems including riparian vegetative cover

Consequences of Development to Urban Streams

- **Increased rate and severity of flooding**
- **Increased erosion of stream banks and bottoms (stream widening and channelization)**
- **Increased sedimentation**

Consequences of Development to Urban Streams

- **Increased chemical pollution**
- **Altered biological populations**
- **Degradation of riparian habitat**
- **Increased stream temperatures (loss of riparian cover)**



**Runoff
Pollution**

Transportation: runoff from roads, parking lots, runways



**Pollutants: salt,
sand, soil, zinc,
petroleum
products, copper,
phosphorus,
glycols**



Regulatory Framework for Municipal Stormwater



Phase I MS4


- Phase I Stormwater Regulations were final in December, 1990.
- Phase I covers Medium >100,000 and Large > 250,000 MS4s.
- Most Phase I communities have individual permits.

Phase II MS4

- Phase II stormwater regulations were final in December 1999.
- Phase II covers small MS4s (basically >10,000 or in an urban area.
- Most Phase II communities have general permits.



MS4 Stormwater Program

- Municipal Separate Storm Sewer Systems (MS4s) must:
 - Obtain NPDES permit coverage.
 - Develop a Storm Water Management Plan (SWMP) which covers the six minimum control measures (other requirements for Phase I).
 - Implement the SWMP.
 - Fully implement their program within the first permit cycle (first 5 years).
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EPA's Role

- The Clean Water Act (CWA), Section 402 mandates that EPA retain oversight of authorized State NPDES programs.
 - Including Storm water programs
- In addition, EPA retains independent enforcement authority of regulated facilities (CWA Section 309).

EPA's Role


- Current National Enforcement Initiative: Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters.
- Stormwater continues to be a national priority.



EPA Audit/Inspection



EPA Audit/Inspection: Now What?

- EPA inspects/audits your MS4.
 - EPA inspector writes report.
 - Report is sent to the EPA Water Enforcement Branch (WENF).
 - WENF sends the report to the City inspected.
 - WENF staff review the report findings.
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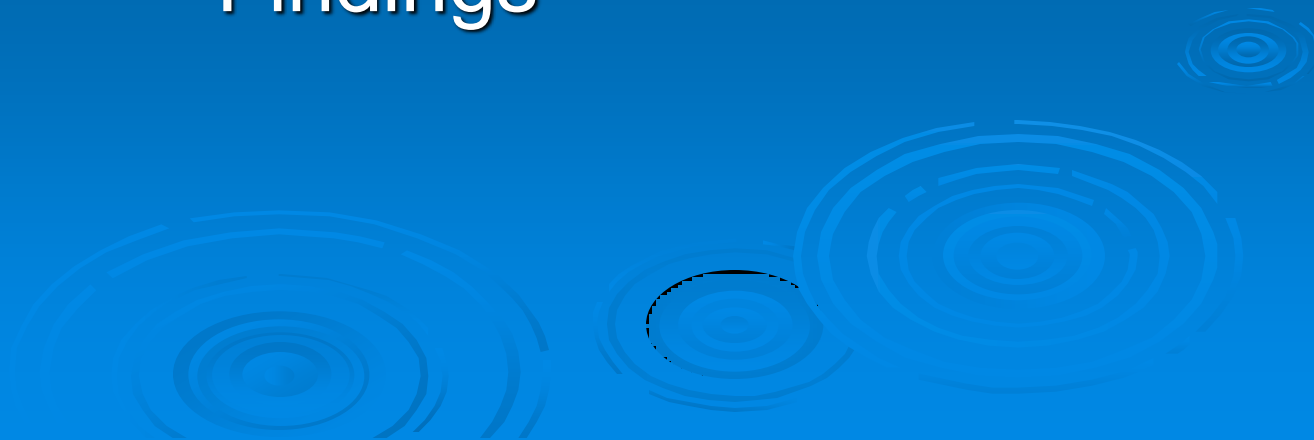
EPA Report Review

What does EPA look for?

- EPA compares what you did to what you were required to do.
- EPA looks at ALL permit requirements.
- Did you meet the requirements?
- Do you have an adequate SWMP?
- Did you tell us what you're going to do AND did you do it?
- Did you do enough of it?

Now What?

Possible Responses to Report
Findings



NFAR

- NFAR = No Further Action Required.
- Letter stating we reviewed the report and you're in compliance.
- This letter closes the inspection report.

LOW

- Letter of Warning
- Letter stating we've completed our review of the report and we identified deficiencies.
- Lists deficiencies.
- You're on notice.
- The wise course of action would be to correct the deficiencies.
- This letter closes the inspection report.

Administrative Compliance Order

- May or may not be on consent (i.e. negotiated).
- Identifies violations.
- Requires compliance.
- Order has specific requirements such as updating SWMP, sending evidence of compliance, etc.
- EPA terminates the Order when all requirements are met and compliance has been achieved and demonstrated.

Administrative Penalty

- Usually coupled with a compliance order.
- CWA § 309 authorizes administrative penalties of up to \$51,570 per day per violation, not to exceed \$257,848.

Civil Judicial Cases

- Penalty usually exceeds our administrative penalty authority of \$257,848.
- These are generally cases with many violations over a long period of time.
- Compliance usually requires extensive injunctive relief.
- These cases are handled jointly by EPA and US DOJ.

So What Should I Do
Now?



What It Boils Down To

- Read your permit.
- Understand its requirements.
- Develop an appropriate and thorough Stormwater Management Plan (SWMP).
- Implement your SWMP!!!
- Evaluate your program's effectiveness.
- Revise your plan as necessary.
- Document your activities.

Resources

- USE EPA's WEBSITE:
- www.epa.gov/water/stormwater
- <http://cfpub.epa.gov/npdes>
- Information available regarding:
 - Permitting information for Phases I & II
 - Fact Sheet Series
 - Guidance Manuals
 - SWMP guidance
 - BMP information
 - Webcast Series