



National Environmental Movement:

A look at...

Stormwater Runoff Diesel Engine Retrofit

Presented by

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Clean Water Act Framework

IF #1

- All point sources
- Discharging pollutants
- Into waters of the United States



THEN #2

- **MUST** obtain an NPDES permit from EPA or an authorized state agency
- A permit is a license to discharge





Construction Stormwater Permits



Construction Stormwater Permits

- **For sites that disturb 1 acre or more of land...**
 - Obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for stormwater discharges from your construction site
- **Construction Stormwater Permits - issued by EPA or state NPDES permitting authority**
- **Construction site “operators” responsible for obtaining permit coverage**
 - Term varies from state to state
- **Penalties for noncompliance can reach \$37,500 per day, for each violation**



Construction Stormwater Permits

- Requirements vary state to state
- **Generally, to obtain permit coverage, you must...**
 - Develop a Construction Stormwater Pollution Prevention Plan (SWPPP) that meets all federal, state and local requirements
 - Submit an application for permit coverage (NOI)
 - Install and maintain Best Management Practices (BMPs) before disturbing land
 - Conduct Inspections / Write Reports / Maintain Records
 - Take corrective action
 - Terminate permit coverage



Linking Stormwater Reqmts & TMDLs

- Total Maximum Daily Load (TMDL) program requires impaired waters to have plans that identify max amount pollution that waterbody can withstand and still meet water-quality standards (that allocation divided btw dischargers)
- TMDL may set a pollution budget (WLA) for stormwater discharges into impaired waterbody + identify special “controls” or “activities”
- SWPPP must translate WLA into stormwater practices





Construction & Development Effluent Limitations Guidelines (C&D ELG)



C&D ELG

- Final rule signed by EPA Nov 23
- EPA is under a court order to publish a final C&D ELG in the Federal Register by Dec 1
- Technology standard – “baseline” stormwater control practices for sites of 1 acre or more
- Effective Feb 2010, phase in over 4 yrs
- ELG will be incorporated into all state/federal NPDES construction stormwater permits



C&D ELG – Final Rule

- **For all construction stormwater permits, EPA identifies MANDATORY BMPs**
 - Erosion and Sediment Controls
 - Soil Stabilization BMPs
 - Dewatering BMPs
 - Pollution Prevention Measures
- **Numeric Turbidity Limit**
 - First time nationwide monitoring requirements and enforceable limits on amount of sediment in construction site runoff



Numeric Turbidity Limit

- Turbidity limit of 280 NTU applies to sites that disturb 20 or more acres at one time (whether contiguous or not) – August 2011
- 280 NTU limit is expanded to include all sites that disturb 10 or more acres of land at one time (whether contiguous or not) – Jan 2014
 - Nephelometric turbidity units
 - Average daily maximum
 - Limited to 2-yr, 24-hr storm event



Numeric Turbidity Limit

- **Mandatory BMPs and other permit restrictions enforceable against sites meeting the 280 NTU limit**
- **States responsible for writing monitoring protocols and methods, as well as reporting requirements**



Applicability to Contractors

- ELG applies to contractors (i.e., construction site “operators”) when reqmts are incorporated into construction stormwater permits
- Implementation date will vary state to state
- EPA puts compliance costs at \$953 Million/Year once fully implemented





Post-Construction Runoff Requirements



Post-Construction Requirements

- In a separate rule, EPA plans to regulate post-construction stormwater runoff by Nov 2012
- Concept – plan, design, install, maintain “permanent” sw runoff controls to mimic pre-development site conditions
- Currently requesting feedback on industry questionnaire to inform rulemaking
- Comments due to EPA by Dec 29



Industry Survey

- EPA plans to distribute “final” survey approx April 2010 “statistical sample” of contractors likely to be impacted by new post-construction sw runoff reqmts
- Completion is **MANDATORY** by law (if you receive the form)
 - EPA estimates 53 hours of work
 - Potential fines/penalties for failure to complete in 60 days



Industry Survey

- **Current “draft” is 61 pages – requests financial and technical information**
 - Firms’ balance sheets, income statements, and cash flow statements for a 5-yr period from FY2005 to FY2009
 - Firms’ project-level stormwater management practices for up to 10 construction jobs completed in FY2009, including design, installation and maintenance costs of such practices





Quick Review....

So How Does This All Fit Together?

1. **CWA** – NO discharge of pollutants to U.S. waters w/o NPDES permit coverage
2. **Construction SW Program** – Construction sites may discharge sediment via runoff IF “operator” secures CGP from EPA or state
 - CGP must meet minimum technology standards – most existing permits require use of BMP to control erosions/sedimentation + visual inspection
 - Contractors have flexibility in selecting best BMPs



So How Does This All Fit Together?

3. **ELG Program** – Obligates EPA to mandate the best available technologies as minimum controls in NPDES permits

- EPA has finalized numeric limit + BMP requirements will requires contractors to do more (once added to permits)

4. **TMDL Program** – If technology-based controls not enough, EPA must look at water quality standards to clean up “impaired” waters

- May require more expensive controls in certain site-specific permits



So How Does This All Fit Together?

5. Post-Construction Program – Use site planning, design, construction and maintenance strategies for the property to maintain or restore the pre-development hydrology w/ regard to rate, volume and duration of flow

- EPA may add new requirements to MS4 permits





Clean Water Act Enforcement

CWA Enforcement

- EPA Administrator has announced plans to strengthen Clean Water Act enforcement efforts nationwide
- Construction sites identified as one of “biggest threats” to our nation’s waters
- Released new Clean Water Act Enforcement Action Plan



CWA Enforcement Action Plan

- EPA's new CWA Enforcement Action Plan calls for the following actions—
 - Target Enforcement to the Most Important Water Pollution Problems – EPA will tackle violations by sources of pollution posing biggest threat to water quality
 - Strengthen Oversight of State Permitting and Enforcement Programs – EPA needs to step in where states are not doing enough to achieve compliance with permit reqmts
 - Improve Accountability and Transparency – Make information on environmental discharges available to the public





AGC Stormwater Task Force

AGC Stormwater Task Force

- **Outgrowth of AGC's Environmental Network**
 - 17 AGC members – volunteers
 - 6 month term
 - Respond to current EPA rulemaking efforts and enforcement initiatives





Diesel Engine Emission Standards

Clean Construction Principles

- AGC of America and the Clean Air Task Force (CATF) have agreed on joint principles to require reductions in diesel emissions from federally-funded transportation projects
- CATF represents leading environmental groups and targets diesel emissions reductions nationwide



Clean Construction Principles

- **State contracting agencies can issue change orders requiring retrofit, but only if (in addition to several other things):**
 - The change order entitles the bidder to recover 100% of its cost of employing such Diesel Emission Reduction Options; and
 - The state has the funding necessary to pay for the change order in its entirety.
- **Respects the competitive bid system and protects small business interests!**



California Diesel Retrofit Rule

- AGC continues to press the California Air Resources Board (CARB) to reopen its rule on emission from off-road diesel equipment
- AGC has worked to raise awareness of problems with rule – potential safety violations and staggering unemployment in industry – and national significance
- AGC filed formal petition to reopen the rule last December + series of comments w/ EPA
- Since then, series of reporting requirements have taken effect



California Diesel Retrofit Rule

- New data show that CARB's original estimates of the size, age, and hp range of equipment were **WRONG** + estimates of emissions from equipment were **TOO HIGH**
- AGC will present its finding to CARB this week
- Results of meeting will determine whether AGC files a lawsuit against CARB





For More Information:

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