



Stormwater Phase II Implementation

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Overview

- Background
- Program Status
- Regional Program Status
- Lawsuits, Permits, and Rules
- EPA Projects Underway
 - SWPPP Guide for Construction Industry
 - MS4 Audit Guide
 - Revised Menu of BMPs and BMP Database
 - Post-Construction Guide
 - Training



Background



What is Storm Water?

- Runoff from natural precipitation, such as rain events and snow melt and other surface runoff and drainage



Why is Storm Water a Problem?

- ➔ Developed and disturbed land contributes to problems
 - Quality (e.g., pollutants such as sediment, nutrients)
 - Quantity (e.g., excess storm water flows)
- ➔ Other pollutants enter storm sewer systems and pollute storm water
 - Illicit discharges
 - Illicit connections



How is Storm Water Regulated Under the NPDES Program?

- ➔ Phased approach to regulation
 - Phase I: Regulated discharges from large & medium sized MS4s and industrial/construction activity (≥ 5 acres)
 - Phase II: Regulated discharges from small MS4s and small construction activities (≥ 1 acre)
- ➔ Permitting Authority (State or US EPA) issues NPDES permit to regulated dischargers



Storm Water Phase II Regulations

- Promulgated on December 8, 1999
- Required permits for:
 - Small MS4s in urbanized areas
 - Additional MS4s designated by the Permitting Authority
 - Construction disturbing 1-5 acres
- Excluded from regulation storm water discharges from industrial facilities that have “no exposure” of industrial activities or materials to storm water.

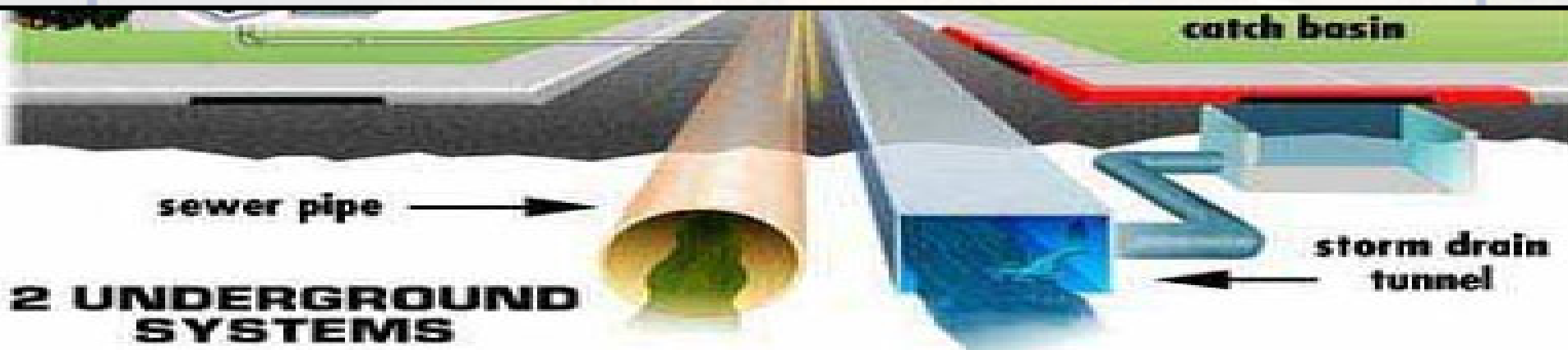


What is an MS4?

A ***municipal separate storm sewer system*** (MS4) is:

A conveyance or system of conveyances... owned by a state, city, town, or other public entity that discharges to waters of the U.S. and is:

- designed or used for collecting or conveying storm water
- not a combined sewer (i.e., carries sewage & runoff)
- not part of a Publicly Owned Treatment Works (POTW)



Regulated Small MS4s: *Permit Requirements*

- ➔ Required to develop, implement and enforce a program to:
 - Reduce the discharge of pollutants to the maximum extent practicable (MEP),
 - Protect water quality, and
 - Satisfy the appropriate water quality requirements of the Clean Water Act

- ➔ Program must include:
 - Six minimum control measures
 - Evaluation/assessment efforts & recordkeeping



Program Status

- Implementation underway...
- Phase II Construction Permits
 - Approximately 42 States have issued
 - 3 States have not finalized
 - EPA CGP covers 5 states and remaining areas



Program Status

- Small MS4 General Permits
 - Approximately 41 States have finalized
 - 4 States have not yet finalized
 - 2 EPA Regions has not yet finalized
 - Several state programs challenged



The background features a collage of images related to construction and environmental protection. In the top left, there are concrete slabs on a dirt surface. In the top right, a large rectangular area is covered with black plastic sheeting, likely for erosion control. In the bottom left, a brick house is under construction on a dirt lot. In the bottom right, a person is working on a dirt path, possibly laying sod or mulch. The central text is overlaid on a light blue background with faint circular patterns.

Phase II Permitting Success Region 4

- With the exception of South Carolina, nearly all automatically designated MS4s currently covered by general permits
- 91% of the required NOIs submitted
- All States have designated permitting lists for 2004/2005 issuances



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Phase II Permitting Success

- Region 4 has diligently worked with States to define Military, State, Municipal and Federal Facilities for Permitting – all MS4 States have nearly completed lists
- All States have general permits addressing small construction activities
- All States have a No Exposure exclusion



Kentucky Phase 2 Stormwater Success

- 2 Phase 1 MS4s
- 100 Phase 2 MS4s covered under general permits
 - Includes 2 federal facilities
- Construction General Permit
- MSGP
- Active in Public Outreach efforts



What's Going On In NPDES Stormwater





Lawsuits, Permits, and Rules

- About a dozen lawsuits pending on stormwater program
 - Decision in the Ninth Circuit Court on MS4 program
 - NRDC et al suit on EPA's CGP
 - Oil and Gas Compliance Extension Rule
 - EPA's Multi-Sector General Permit



Ninth Circuit Court Decision

- Focuses on MS4 program
- Three major points:
 - Public availability of NOIs
 - Opportunity for public hearings
 - Review of NOIs
- NRDC recently canvassed Regions to assess status
- EPA posting construction NOIs and will propose public review period in new MSGP



NRDC Challenge to EPA CGP

- Major points:
 - Require review of NOIs and SWPPPs
 - Perform antidegradation reviews
 - Prohibit discharges to impaired water unless TMDLs exist and the operator demonstrates that allowable load exists
 - Public availability of NOIs and SWPPPs and public hearings
 - Mandatory EPA participation in ESA process
- NRDC lost, creating disagreement between the 7th circuit on construction and the 9th circuit on MS4s
- Appeal?





Oil & Gas Compliance Extension

- Compliance for small oil and gas construction activity (1-5 acres) extended until June 2006.
- The Phase II Rule assumed that few facilities would be affected
- Subsequently, EPA has learned that as many as 30,000 sites per year might be covered by the regulations
- Currently developing a draft economic impact report and will propose a rule in September 2005.



EPA's MSGP

- Will issue proposed permit July 2005
- Proposing 30 day comment period for new facilities
- Basic monitoring requirements for all
- Improved monitoring schedule and follow-up actions



The background of the slide is a collage of images related to construction and environmental protection. It includes a close-up of concrete slabs, a large construction site with a black erosion control mat, a brick house under construction, and a person working on a dirt road. The text 'EPA Projects' is centered in green.

EPA Projects

- SWPPP Guide for Construction Industry
- MS4 Audit Guide
- Revised Menu of BMPs and BMP Database
- Post-Construction Guidance
- Training





SWPPP Guide for Construction

- Designed for small to medium-sized sites (approx. 1-5 acres)
- Clearly explains basic elements of a SWPPP and how to develop them
- Encourages emphasis on local water quality problems
- Includes information on Low Impact Development, Urban Forestry, BMP basics, etc.



MS4 Audit Guide

- Follow-up to last year's Permitting for Environmental Results (PER) process
- First step in multi-year effort to develop comprehensive program evaluation system for the stormwater program
- Draft will be beta tested this year, final in winter 2006
- Other elements will include annual report guidance, program measures and tracking, regular reviews, etc.



Menu of BMPs and Database

- Updating and revising the Menu of BMPs – Release by August
- New BMP performance database
 - Enhance usability of existing ASCE database
 - Expand number of studies
 - New user interface will help select better BMPs based on local water quality issues, soil types, rain fall patterns, slope, etc.
 - EPA will manage database, ASCE will continue screening and adding studies



The background features a collage of four images: top-left shows concrete slabs on a dirt site; top-right shows a residential lot with black erosion control fabric; bottom-left shows a brick house on a dirt lot; bottom-right shows a person working on a dirt road with a car in the distance.

Post-Construction Guidance

- Developing a comprehensive guide for Phase II communities
- Will include detailed guidance on program setup, creating an ordinance, sizing criteria, smart growth, low impact development, etc.
- Working with the Center for Watershed Protection to develop
- Publication spring/summer 2006



Training

- Second year of EPA sponsored workshops for local Phase II stormwater managers (Indianapolis and Boise coming up)
- Series of Webcasts will be announced in fall/winter
- Online modules covering public education & involvement, illicit discharge, construction, and post-construction will be added to Watershed Academy soon



The background features a collage of images related to construction and environmental protection. In the top left, there are concrete slabs on a dirt surface. In the top right, a construction site shows a foundation with black plastic lining. In the bottom left, a brick house is under construction on a dirt lot. In the bottom right, a person is working on a large pile of reddish-brown soil or gravel. The central text is overlaid on a light blue circular graphic.

Resources

- Education and Outreach Materials
www.epa.gov/npdes/stormwatermonth
- MS4 Case Studies – approximately 20
www.epa.gov/npdes/casestudies
- Illicit Discharge Manual – Developed by Center for Watershed Protection
www.epa.gov/npdes/stormwater



Questions?

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