



BCD NEMO PROGRAM

National Pollutant Discharge Elimination System (NPDES)

Since the passage of the Clean Water Act (CWA), the quality of U.S. waters has seen drastic improvement. However, water quality degradation is still a problem. This is mainly because the leading cause of water quality degradation, nonpoint source runoff, has not been regulated ... *until now*.

Phase I of the Environmental Protection Agency's (EPA) stormwater program was promulgated in 1990 under the CWA. It relies on the National Pollutant Discharge Elimination System (NPDES) permit coverage to address stormwater runoff from:

1. "Medium" and "large" municipal separate stormwater systems (MS4s) serving populations of 100,000 or greater. An MS4 is essentially a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a public body or is designed or used for collecting/conveying stormwater. It is not a combined sewer and is not part of a publicly owned treatment works (POTW)
2. Construction activity disturbing 5 acres of land or more
3. Ten categories of industrial activity

The Stormwater Phase II Final Rule is the next step in EPA's effort to protect and improve water quality in the U.S. It expands the Phase I program by using NPDES permits to control polluted stormwater runoff through programs and practices. Phase II is intended to further reduce water quality degradation through the use of controls on nonpoint source runoff, which is currently unregulated and has been proven to cause water quality problems.

Entities required to obtain a permit under Phase II include:

1. "Small" municipal separate stormwater systems (MS4s) located within the boundaries of the Bureau of Census-defined urbanized areas (areas having a contiguous population of 50,000 or more and having an overall population density of at least 1,000 persons per square mile)
2. Operators of construction sites disturbing between 1 and 5 acres of land

The NPDES permitting authority in South Carolina, Department of Health and Environmental Control (DHEC), has not yet finalized its Phase II program methodology. Therefore, this fact sheet discusses the requirements EPA has placed on DHEC and other NPDES permitting authorities.

Requirements

Operators of regulated small MS4s are required to design their Phase II programs to:

1. Reduce the discharge of pollutants as much as possible
2. Protect water quality
3. Satisfy the appropriate water quality requirements of the Clean Water Act

DHEC is required to issue permits for regulated small MS4s no later than December 9, 2002. Those operators must then have permit coverage by March 10, 2003 and are required to:

- ❖ Apply for NPDES permit coverage

- ❖ Develop a stormwater management program which includes six minimum control measures (see below)

- ❖ Implement the stormwater management program using appropriate stormwater management controls, or best management practices (BMPs)
- ❖ Develop measurable goals for the program
- ❖ Evaluate the effectiveness of the program

The six minimum control measures that are required in Phase II stormwater management programs include (1) public education and outreach, (2) public participation and involvement, (3) illicit discharge detection and elimination, (4) construction site runoff control, (5) post-construction runoff control, and (6) pollution prevention and good housekeeping.

Implementation Options

The Phase II Final Rule identifies a number of implementation options for regulated small MS4 operators intended to promote a regional approach to stormwater management. These include sharing responsibility for program development with a regulated small MS4 within close proximity, taking advantage of existing local or state programs, or participating in the implementation of an existing Phase I MS4's stormwater program as a co-permittee.

Designation Criteria

EPA recommends that DHEC use a balanced consideration of the following designation criteria on a watershed or other local basis:

- ❖ Discharge to sensitive waters
- ❖ High population density
- ❖ High growth or growth potential
- ❖ Contiguity to an urbanized area
- ❖ Significant contributor of pollutants to waters of the U.S.
- ❖ Ineffective protection of water quality concerns by other programs

A list of the designated MS4s in South Carolina can be found on the DHEC website at www.scdhec.net/water/html/swn_sms4.html. This list is not final and is subject to changes.

Are Waivers from the Phase II Permit/Program Requirements Possible?

Two waiver options are available to operators of automatically designated small MS4s if discharges do not, or do not have the potential, to cause water quality impairment. The first applies where the jurisdiction served by the system has a population of less than 1,000, is not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4, and where an EPA approved total maximum daily load (TMDL) establishes that stormwater controls are not needed for the discharge from a small MS4 of any pollutants identified as a cause of impairment of any waterbody.

The second applies where the jurisdiction served by the system has a population of less than 10,000 people, an evaluation of all waters that receive a discharge from the system shows that stormwater controls are not necessary based on the findings of an EPA approved TMDL, and it is determined that future discharges from the small MS4 do not have the potential to exceed water quality standards.

DHEC is required to set up a schedule to review any waivers granted to MS4 operators to determine whether any information required for granting the waiver has changed. Reviews must occur at least every 5 years.

Information adapted from EPA Stormwater Phase II Final Rule Fact Sheet Series.