

EPA Storm Water Fact Sheet

Environmental Impacts:

- While water pollution control measures in the US for industrial process wastewater and municipal sewage have had major success, urban and agricultural runoff continue to contribute to our Nation's remaining water quality problems. A report entitled: *The National Water Quality Inventory, 1992 Report to Congress*, provides a national assessment of surface water impacts associated with runoff from various land uses. The latest report concludes that storm water runoff from a number of diffuse sources, including municipal separate storm sewers and urban runoff is a leading cause of water quality impairment cited by States.
- Storm water runoff from urbanized areas and industrial and commercial activities can contain high levels of contaminants, such as sediment, suspended solids, nutrients, heavy metals, pathogens, toxics, and oxygen demanding substances. [*The Results of the Nationwide Urban Runoff Program*; EPA, 1983]
- 38 States have reported urban runoff as a major cause of use impairment; 21 States report construction site runoff as a major cause of use impairment; storm water has contributed to the impairment of approximately one quarter of the lakes and estuaries assessed by States and found to be impaired. [*America's Clean Water: The States' Nonpoint Source Assessment*; ASIWPCA Study, 1985]
- Shellfish harvesting is limited in numerous areas of the Gulf, East, and West Coasts due to urban runoff. Gulf Coast -1,000,000 acres, West Coast-130,000 acres, East Coast-600,000 acres are limited. [*The Quality of Shellfish Growing Waters on the East Coast, West Coast, and Gulf of Mexico*; NOAA, 1988-1990]

Statutory Provisions: The Clean Water Act-Section 402(p) (As amended)

- Establishes 2-Phase Storm Water Program
 - Phase I - Permits required for large (over 250,000 pop. served) and medium (100,000-250,000 pop. served) municipal separate storm sewer systems and storm water discharges "associated with industrial activity". Surface Transportation Act of 1991 placed industrial activities conducted by municipalities of less than 100,000 population into Phase II with three exceptions: power plants, airports, and uncontrolled sanitary landfills.
 - Phase II - EPA to assess remaining storm water discharges, establish procedures and methods to control storm water contamination to extent necessary to mitigate impacts on water quality. The Water Resources Development Act of 1992 required Phase II storm water regulations by October 1, 1993. Phase II discharges required to submit applications after October 1, 1994.

Regulatory Actions for Phase I:

- Final rule published 11/16/90 as amended established scope of program: defined "storm water discharge associated with industrial activity" identified 220 large and medium storm sewer systems, and established permit application requirements.
- On May 27 and June 24, 1992, the United States Court of Appeals for the Ninth Circuit, issued two opinions generally affirming EPA's November 16, 1990 storm water application regulations. Specifically, the Ninth Circuit upheld EPA's definition of "municipal separate storm sewer system", the standards for municipal storm water controls, the scope of the permit exemption for oil and gas operations, and EPA's decision not to provide public comment on Part I group industrial permit applications. In "*American Mining Congress v. EPA*, 965 F.2d 759 (9th Cir. 1992)" ("AMC") and "*Natural Resources Defense Council v. EPA*, 966 F.2d 1292 (9th Cir. 1992)" ("NRDC").

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- In response court ruling in NRDC v. EPA (9th Cir., 1992) a final regulation on 12/18/92 established generally applicable permit issuance deadlines as follows: 1) permits issuance deadline for industrial discharges: one year after submission of a complete application or October 1, 1993; and 2) permit issuance deadline for large and medium municipal separate storm sewer systems: one year after submission of a complete application or November 16, 1993 and May 17, 1994 respectively. In addition, the court clarified that the regulation of construction activities disturbing less than 5 acres; and light industry without exposure to storm water will be reserved pending further rulemaking.

Scope of Industrial Program:

- EPA finalized general permits for construction and industrial activities in 11 States without NPDES authorization (September 9, 1992, September 25, 1992 and April 14, 1993 respectively).
 - 39 authorized NPDES States can issue general permits. For storm water, 35 States have at least one final general permit; 1 State has proposed draft general permits; and 2 States have staff level draft general permits as of January 1994.
 - As of July 1994, approximately 24,000 facilities are covered under EPA Industrial and Construction General Permits for use in non-authorized States.
 - As of January 1994, approximately 65,500 facilities are covered under general permits issued by authorized NPDES States.
- Proposed Multi-Sector Industrial Storm Water General Permit:
 - To provide flexibility for the regulated community in acquiring a storm water discharge permit, EPA developed three permit application options. Industries could submit an individual application, a group application, or a notice of intent for a general permit. Under the group application process, similar industrial facilities were allowed to group together and submit a single application for the development of a model storm water discharge permit.
 - Using the group application information, EPA developed an industry-specific multi-sector storm water general permit. Group application information included descriptions of industrial activities, materials stored outdoors, best management practices and storm water sampling data. To develop the multi-sector permit, EPA divided the 44,000 facilities into 29 industrial sectors based on similar industrial activities. EPA incorporated the permit requirements for all 29 sectors into a single, storm water general permit.
 - The draft permit was public noticed in the *Federal Register* on November 19, 1993. The 90-day comment period ended on February 17, 1994. Approximately 3,000 pages of comments were received. EPA is now working to address those comments and issue a final permit in the fall of 1994.
- Long-term Strategy - risk based approach to deal with identified water quality problems and support watershed initiatives. The strategy consists of a four tiered framework.
 - Tier I - Baseline Permitting: One or more general permits will be developed to initially cover the majority of storm water discharges associated with industrial activity.
 - Tier II - Watershed Permitting: Facilities within watersheds shown to be adversely impacted by storm water discharges associated with industrial activity will be targeted for individual or watershed-specific permits.
 - Tier III - Industry-Specific Permitting: Specific categories will be targeted for individual or industry-specific general permits.
 - Tier IV - Facility Specific Permitting: A variety of factors will be used to target specific facilities for individual permits.

Scope of Municipal Program:

- EPA originally identified 220 large and medium municipalities whose populations exceed 100,000 according to the Bureau of Census.
- Approximately 829 municipal entities are participating in Phase I of the storm water program.
 - Over 42 additional large and medium MS4s were identified by the 1990 census.
 - Approximately 30 MS4s were excluded from the program because of combined sewers.
 - Over 597 additional MS4s were added through the designation process, because of jurisdictional agreements among municipal entities, and because of the inclusion of "special districts" such as departments of transportation, flood control districts, and universities.
- EPA estimates that a total of approximately 275 municipal permits will eventually be issued (approximately 183 permits to be issued to individual municipalities of which an estimated 92 permits are expected to be issued to municipalities that have co-permittees.
- Approximately 71 final permits have been issued to MS4s as of August 1994.

Phase II Program Development:

- EPA is preparing a report to Congress identifying remaining discharges for the Phase II program. This report summarizes recommendations on how best to address these additional Phase II storm water sources.
- Recommendations on how best to control Phase II discharges are discussed in detail in the Administration's position on CWA reauthorization for storm water entitled: *President Clinton's Clean Water Initiative*, published in February, 1994.