

Federal, State and Local Requirements

Federal Requirements

In the United States, the Environmental Protection Agency (EPA) is charged with regulating stormwater pursuant to the Clean Water Act (CWA). The goal of the CWA is to restore all "Waters of the United States" to their "fishable" and "swimmable" conditions. Point source discharges, which originate mostly from municipal wastewater (sewage) and industrial wastewater discharges, have been regulated since enactment of the CWA in 1972. Pollutant loadings from these sources are tightly controlled and limited. However, despite these controls, thousands of water bodies in the U.S. remain classified as "impaired," meaning that they contain pollutants at levels higher than is considered safe by EPA for the intended beneficial use of the water. Much of this impairment is due to polluted runoff.

Under the CWA, point source discharges to "Waters of the United States" require National Pollution Discharge Elimination System (NPDES) permits. To address the nationwide problem of stormwater pollution, Congress broadened the CWA definition of "point source" in 1987 to include industrial stormwater discharges and municipal separate storm sewer systems ("MS4"). These facilities were required to obtain NPDES permits. This 1987 expansion was promulgated in two phases: Phase I and Phase II. Phase I required that all municipalities of 100,000 persons or more, industrial dischargers, and construction sites of 5 acres (20,000 m²) or more have NPDES permits for their stormwater discharges. Phase I permits were issued in much of the U.S. in 1991. Phase II required that all municipalities, industrial dischargers, construction sites of 1 acre (4,000 m²) or more, and other large property owners (such as school districts) have NPDES permits for their stormwater discharges. Phase II rules came into effect in 2003.

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EPA issued a new Construction General Permit (CGP) in July 2008. This permit expires in 2011 and continues the provisions of the previous permit. In December 2009 EPA issued new discharge standards, called effluent guidelines, for construction sites. These requirements set a new national minimum standard for erosion controls and sediment controls, and pollution prevention measures. The effluent guideline provisions will be incorporated into the next round of EPA and state general permits.

In 2009 EPA also launched the website "Watershed Central" to allow concerned public to develop plans to protect local watersheds and combat stormwater pollution.

State and Local Requirements

EPA has authorized 46 states to issue NPDES permits. In addition to implementing the NPDES requirements, many states and local governments have enacted their own stormwater management laws and ordinances, and some have published stormwater treatment design manuals. Some of these state and local requirements have expanded coverage beyond the federal requirements. For example, the State of Maryland requires erosion and sediment controls on construction sites of 5,000 sq ft (460 m²) or more. It is not uncommon for state agencies to revise their requirements and impose them upon counties and cities; daily fines ranging as high as \$25,000 can be imposed for failure to modify their local stormwater permitting for construction sites, for instance.

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Nonpoint Source Pollution Management

Agricultural runoff (except for concentrated animal feeding operations, or "CAFO") is considered by the CWA to be nonpoint source pollution. It is not included in the CWA definition of "point source" and therefore not subject to NPDES permit requirements. The 1987 CWA amendments established a non-regulatory program at EPA for nonpoint source pollution management consisting of research and demonstration projects. Related programs are conducted by the Natural Resources Conservation Service (NRCS) in the U.S. Department of Agriculture.