

Hot Regulatory Developments

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Regulatory Developments

- Pesticide Spraying General Permit
- SSO Rule – FR Notice
- Stormwater Rules
- Draft MS4 Permits in AZ

Pesticide Spraying General Permit

- Cotton Council case – 6th Cir. Court of Appeals
- Stay expires 4/9/11 – after that, NPDES permits required for point source discharges to waters of US of biological pesticides, and of chemical pesticides that leave residue
- EPA issued draft general permit on June 4
- Comments due July 19
- Public meetings in Albuquerque (June 14), Boise, Boston and DC

Pesticide Permit (Continued)

- General permit covers:
 - Mosquito and other flying insect spraying & forest canopy spraying on or near water
 - Direct application to water to address aquatic weeds and algae & aquatic nuisance animals
 - May cover other applications in future
- Permit applies in MA, NH, DC, NM, OK, TX (for sources not covered by TCEQ), AK, ID
- Will serve as model for State permits

Pesticide Permit Requirements

- Use lowest effective amount per application and optimum frequency of application necessary
- Perform regular maintenance activities
- Maintain application equipment in proper operating condition
- If exceed annual treatment area threshold, must do Integrated Pest Management
- If act inconsistently with FIFRA label, presume that tech requirements violated

Pesticide Permit Requirements

- Must do controls as necessary to meet WQS
- EPA expects that compliance with other permit provisions will meet that test
- Monitoring requirements
- Pesticide disposal management plan (PDMP)
- Corrective action provisions
- Recordkeeping and reporting

SSO Rule – FR Notice

- Issued on June 1
- Comments due August 2
- Public meeting in Seattle (6/24), other regions
- Issues
 - Monitoring, reporting and recordkeeping
 - CMOM plans & asset management
 - Coverage for satellite collection systems (NOTE EAB decision in Upper Blackstone)
 - Exception to discharge prohibition for SSOs caused by exceptional circumstances
 - Requirements for peak flows at POTWs (blending)

Stormwater Rules

- NAS report recommends major changes to stormwater permitting programs, some of which would require changes to CWA
- EPA announces plan to issue new stormwater rules in final form by Nov 2012 – proposal out in late 2011
- Focus is on tightening requirements for development, redevelopment, and existing development, including addressing both construction and post-construction runoff

Stormwater Notices

- Three FR notices so far on stormwater rules
- 10/30/09 – proposed Info Collection Request on questionnaires to gather info on stormwater discharges and controls
- 12/28/09 – request for input on new program to regulate stormwater discharges from development & redevelopment
- 5/10/10 – proposed ICR on questionnaires to gather info for development of new development/redevelopment regulations

EPA Rulemaking Goals

- Expand universe of regulated discharges
- Establish substantive post-construction requirements for new and redevelopment
- Develop single set of consistent requirements for all regulated MS4s
- Address stormwater discharges from existing development – consider imposing retrofit requirements
- Consider additional requirements for sensitive areas, such as Chesapeake Bay

Draft MS4 Permits in AZ

- Pima County
- Tempe
- Others
- Others outside of AZ
 - Montgomery County, MD
 - Ventura County, CA
 - Others

Questions?

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