U.S. Environmental Protection Agency – November 2004

Compliance and Enforcement National Priority: Clean Water Act, Wet Weather, Storm Water

The United States Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance (OECA) has established national priorities for federal fiscal years (FY) 2005 through 2007. OECA and the EPA's 10 Regions will make the following issues priorities for monitoring, compliance assistance, enforcement and cleanup actions over the next three years:

1. Clean Air Act: Air Toxics
2. Clean Air Act: Prevention of Significant Deterioration and New Source Review
3. Tribal
4. Clean Water Act: Wet Weather, including:
   - Concentrated Animal Feeding Operations
   - Combined Sewer Overflows
   - Sanitary Sewer Overflows
   - Storm Water
5. Resource Conservation and Recovery Act: Mineral Processing and Mining

After evaluating the Safe Drinking Water Act (SDWA) Microbial Rules as a national priority, the Agency determined that it was more appropriate to address the non-compliance microbial problems, which occur predominately at very small drinking water systems, through the SDWA core program. The Petroleum Refining national priority is near completion and will be assessed during the coming year to determine if sufficient progress has been made to return this priority to the core program.

Four environmental challenges that are exacerbated by wet weather were chosen as Clean Water Act (CWA) national enforcement and compliance priorities for FY 2005 through FY 2007. They are concentrated animal feeding operations, combined sewer overflows, sanitary sewer overflows and storm water runoff. Like the other national priorities, they were selected because they met the selection criteria: (1) increased national attention could lead to significant environmental benefits; (2) there were patterns of non-compliance; and (3) EPA was well-suited to take action in this strategy area.

The Storm Water strategy summary that follows provides clear goals to achieve maximum compliance with environmental regulations in order to protect human health and the environment.

Background and Environmental Problems

Discharges of storm water runoff can have a significant impact on water quality. Several studies

reveal that storm water runoff from urban areas can include a variety of pollutants, such as sediment, bacteria, organic nutrients, hydrocarbons, metals, oil and grease. These pollutants can harm the environment and public health.

According to EPA's *National Water Quality Inventory: 2000 Report*, prepared under Section 305(b) of the Clean Water Act, urban storm water runoff and discharges from storm sewers are a primary cause of impaired water quality in the United States. These sources contribute to 13 percent of impaired rivers and streams, 18 percent of impaired lakes, 55 percent of impaired ocean shorelines, and 32 percent of impaired estuaries.

Storm water runoff from construction activities can have a significant impact on water quality. In addition to sediment, as storm water flows over a construction site, it can pick up other pollutants like debris, pesticides, petroleum products, chemicals, solvents, asphalts and acids which also contribute to water quality problems.

Storm water discharges from Municipal Separate Storm Sewer Systems (MS4s) in urbanized areas are a concern because of the high concentration of pollutants they carry. Common pollutants include pesticides, fertilizers, oils, salt, litter and sediment. Storm water picks up and transports these pollutants and then discharges them–untreated–to waterways through storm sewer systems.

Goals

Goal 1: Protect public health and the environment by minimizing the discharge of polluted storm water to surface waters. The focus will be on priority sectors with the potential to significantly impact human health or the environment or activities in priority watersheds.

Priority sectors and watersheds include:

1. sectors that are in high growth communities where storm water may result in high sediment loadings;
2. sectors that are in environmental justice or tribal areas;
3. sectors where storm water has the potential to impact water quality and drinking water quality and public health;
4. waters that are identified as being impacted by storm water or by pollution likely caused by storm water;
5. waters that have shellfish harvest restrictions, beach advisories or fish kills where storm water or pollution likely caused by storm water significantly contributes to the problem; and,
6. threatened or endangered species' habitats.

EPA will target at least 70 percent of storm water inspections and compliance assistance toward priority sectors or watersheds. Regions will focus inspection resources in states with low levels of planned inspections or to support national initiatives.

Reduce the environmental impact of storm water by undertaking federal enforcement cases in areas likely to produce the greatest environmental benefit. EPA will undertake adequate inspections, compliance assistance, compliance incentives and enforcement activities to:

- prevent 2.5 million pounds of sediment a year from discharging from construction sites into our nation's waters, and;
- prevent specific pollutants from discharging from industrial (non-construction) sources into our nation's waters.

Goal 2: Assist states, localities and tribes in the development and enhancement of their storm water programs by annually conducting training courses and joint inspections.

Strategies

- Use a mix of compliance assistance tools to increase awareness of storm water pollution control requirements within the regulated community and among state and local regulators.
- Implement more efficient and effective methods to disseminate compliance assistance materials.
- Develop and use several inspection-related tools to streamline inspection procedures and policies and increase inspector efficiency and to increase inspection presence to deter or document noncompliance.
- Will continue to explore ways to streamline the enforcement process to ensure that actions are timely and appropriate. Through effective and appropriate enforcement actions and injunctive relief in settlements, we will protect the environment and human health.

Performance Measurement

As the following thresholds are achieved, storm water compliance and enforcement should change from a priority to an element of the core NPDES Compliance and Enforcement program.

1. The inventory of priority watersheds and communities is complete and procedures are in place to maintain the inventory.
2. All Phase I MS4s have been audited by either state or federal inspectors at least once in the preceding five years, and appropriate compliance assistance and/or enforcement actions have been taken to address non-compliance; 80 percent of the Phase I MS4s are in compliance or on an enforceable schedule to achieve compliance.
3. Phase I construction sites greater than one acre have achieved 75 percent permit coverage and at least six of the remaining nine industrial storm water categories have obtained at least 75 percent permit coverage through the combined efforts of EPA and states.
4. EPA has developed a supplemental strategy to determine how to address non-compliance at smaller, Phase II MS4s and construction storm water sites as well as other regulated

entities not addressed by the FY 2005 - FY 2007 strategy through compliance assistance, incentives and/or enforcement actions. Self-audit procedures have been developed.

5. EPA has developed a supplemental strategy to determine how to maintain the progress made in addressing noncompliance in the storm water program by: 1) determining the continued training that is required to maintain the program; 2) reviewing inspection and enforcement activity annually, and 3) determining any additional requirements that should be placed in state plans.