

USEPA Effluent Guidelines for Discharges from Construction and Development Industry Rule Summary

Applicability

- Construction sites that disturb 20 or more acres at one time will be required to conduct monitoring of discharges and comply with the numeric limitation beginning 18 months after the effective date of the final rule.
- Beginning four years after the effective date of the final rule, the monitoring requirements and numeric limitation will apply to all sites that disturb 10 or more acres at one time..

Implementation

- EPA is phasing in the numeric limitation over four years to allow permitting authorities adequate time to develop monitoring requirements and to allow the regulated community time to prepare for compliance with the numeric limitation.
- EPA currently issues permits for construction activities in four states, the District of Columbia and in certain U.S. territories and tribal areas. The EPA Construction General Permit (CGP), which is set to expire on June 30, 2011, will be updated to include the new requirements when reissued.
- The remaining states issue their own construction general permits, and the new requirements must be incorporated into any new general permits issued after the effective date of the regulation, which is 60 days after publication in the Federal Register (submitted for publication November 23, 2009).
- The requirements also apply to individual permits issued by states or EPA. Therefore, the implementation date of the new requirements will vary depending on when states reissue their permits and whether projects are covered by individual or general permits.
- This rule focuses on discharges composed of stormwater but the ELGs and NSPSs also apply to other discharges of pollutants from C&D sites, such as discharges from dewatering activities.
- The ELGs and NSPSs would require stormwater discharges from most C&D sites to meet effluent limitations designed to reduce the amount of sediment, turbidity, Total Suspended Solids (TSS) and other pollutants in stormwater discharges from the site
- For purposes of this rule, EPA has defined “new source” as “any source, whose discharges are defined in 40 CFR 122.26(b)(14)(x) and (b)(15), that commences construction activity after the effective date of this rule.”
- These effluent limitations would, for many sites, require an additional layer of management practices and/or treatment above what most state and local programs are currently requiring. Permitting authorities are required to incorporate these turbidity limitations into their permits and permittees are

required to implement control measures to meet a numeric turbidity limitation in discharges of stormwater from their C&D sites.

- EPA will incorporate these ELG and NSPS into permits for federal facilities in Colorado on June 30, 2011.
- Only Exemption applies to discharges associated with construction of interstate natural gas pipelines that are under the jurisdiction of the Federal Energy Regulatory Commission (FERC)
- EPA's numeric effluent limitation is a daily maximum limitation of 280 NTU Turbidity; meaning that permittees may sample the turbidity in their discharges multiple times over the course of a day and the average of all measurements may not exceed the limitation. During any given day, samples may be averaged to determine the average turbidity for the day. It is this average daily value that must be below the limitation specified in the rule.
- EPA is leaving the specific monitoring frequency requirements to the discretion of each permitting authority, including such issues as the sampling frequency during any one discharge event and the number of discharge events that must be sampled.
- The numeric limitation applies to all discharges from the site except on days when total precipitation during that day exceeds the local 2-year, 24-hour storm event. Even when total precipitation during the day exceeds the local 2-year, 24-hour storm permittees must comply with the non-numeric effluent limitations
- Monitoring Locations: The numeric limitation applies to all discharges from C&D sites. However, diffuse stormwater, such as non-channelized flow through a silt fence or other perimeter control that infiltrates into a vegetated area, and does not then discharge to surface waters, would not generally require sampling. EPA is encouraging (although not requiring) permittees to utilize dispersion of stormwater to vegetated areas and infiltration of stormwater instead of discharging it from the site.

The Limits

Effluent limitations reflecting the best practicable technology currently available (BPT).

(a) **Erosion and Sediment Controls.** Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:

- (1) Control stormwater volume and velocity within the site to minimize soil erosion;
- (2) Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and streambank erosion;
- (3) Minimize the amount of soil exposed during construction activity;
- (4) Minimize the disturbance of steep slopes;
- (5) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the

amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible; and

(7) Minimize soil compaction and, unless infeasible, preserve topsoil.

(b) **Soil Stabilization.** Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permitting authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority.

(c) **Dewatering.** Discharges from dewatering activities, including discharges from dewatering of trenches and excavations are prohibited unless managed by appropriate controls.

(d) **Pollution Prevention Measures.** Design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(e) **Prohibited Discharges.** The following discharges are prohibited:

(1) Wastewater from washout of concrete, unless managed by an appropriate control;

(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

(4) Soaps or solvents used in vehicle and equipment washing.

(f) **Surface Outlets.** When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible.

§ 450.22 Effluent limitations reflecting the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any point source subject to this subpart must achieve, at a minimum, the following effluent limitations representing the

degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) Beginning no later than [INSERT DATE 20 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] during construction activity that disturbs 20 or more acres of land at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale; and no later than [INSERT DATE 4 YEARS AND 2 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] during construction activity that disturbs ten or more acres of land area at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale, the following requirements apply:

(1) Except as provided by paragraph (b) of this section, the average turbidity of any discharge for any day must not exceed the value listed in the following table:

| Pollutant | Daily Maximum Value (NTU) ¹ |
|-----------|--|
| Turbidity | 280 |

1. Nephelometric turbidity units.

(2) Conduct monitoring consistent with requirements established by the permitting authority. Each sample must be analyzed for turbidity in accordance with methods specified by the permitting authority.

(b) If stormwater discharges in any day occur as a result of a storm event in that same day that is larger than the local 2-year, 24-hour storm, the effluent limitation in paragraph (a)(1) of this section does not apply for that day.

(c) Erosion and Sediment Controls. The limitations are described at § 450.21(a). 250 251

(d) Soil Stabilization. The limitations are described at § 450.21(b).

(e) Dewatering. The limitations are described at § 450.21(c).

(f) Pollution Prevention Measures. The limitations are described at § 450.21(d).

(g) Prohibited Discharges. The limitations are described at § 450.21(e).

(h) Surface Outlets. The limitations are described at § 450.21(f).

§ 450.23 Effluent limitations reflecting the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any point source subject to this subpart must achieve, at a minimum, the following effluent limitations representing the degree of effluent reduction attainable by application of the best conventional pollutant control technology (BCT). The effluent limitations are described at § 450.21.

§ 450.24 New source performance standards reflecting the best available demonstrated control technology (NSPS).

Any new source subject to this subpart must achieve, at a minimum, the following new source performance standards representing the degree of effluent reduction attainable by application of the best available demonstrated control technology (NSPS): The standards are described at § 450.22.

An example may help to illustrate how EPA will implement the 10-acre threshold trigger for requiring sampling.

Examples of when individual disturbances of less than 10 acres are required to sample:

- If construction activities as part of a large residential subdivision that disturb 5 acres of land in one lot, and, at the same time, 5 acres of land in another lot, and the two lots are not adjacent to one another, samples of the discharges from these sites would be required pursuant to 40 CFR 450.22(a). Sampling is required under this scenario because together the two land disturbances measure 10 or more acres, and they are considered part of the same common plan of development or sale. However, no discharge sampling would be required if the two construction projects under this same scenario disturb less than 10 acres of land total at the same time.
- Alternatively, if one of the 5-acre projects occurs at a different time than the other, such that at no time are 10 or more acres being disturbed at the same time, then sampling is not required for these activities. In the same way, if one of the 5-acre projects has achieved final stabilization in accordance with 40 CFR 450.21(b) by the time the other 5-acre project commences, then no sampling is required because the combined acreage of ground disturbance at one time is less than 10 acres.