

# Current Trends in Stormwater Programs & Regulations

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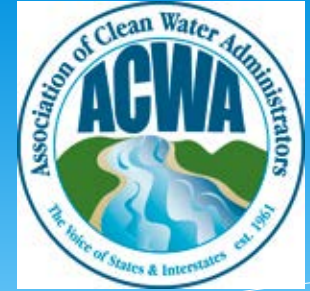
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# ACWA

- \* Founded in 1961, originally ASIWPCA
- \* National, nonpartisan professional organization of State/Interstate/Territorial Water Program Directors
- \* Delegated/Authorized Federal Programs and State Programs



# ACWA Mission



- \* National voice of State and Interstate water programs
- \* Strive to protect and restore watersheds to achieve “clean water everywhere for everyone”
- \* Facilitate technical and policy innovation among national and State water programs (best practices)
- \* Foster the collaboration needed for sound public policy
- \* Interact with Congress, EPA, USDA, USGS, and other stakeholder groups

# Clean Water Act

- \* to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" by declaring unlawful the unregulated discharge of pollutants into all waters of the United States.
- \* NPDES program regulates stormwater discharges from 3 sources
  - \* MS4
  - \* Construction Activities
  - \* Industrial Activities



# CWA & State Stormwater Management Controls

- \* SW Discharges are source of impairment for tens of thousands miles of rivers, streams, coastal shorelines, as well as hundreds of acres of lakes, reservoirs and ponds
- \* Roads & parking lots make up 70% of total impervious cover in urban landscapes and 80% off directly connected imperious cover.
  - \* NATIONAL RESEARCH COUNCIL, *Urban Stormwater Management in the United States*, 2008.

# CWA & Stormwater Controls

- \* Most states have been authorized to implement the NPDES stormwater program.
- \* The Construction General Permit and Multi-Sector General Permit apply only in areas where EPA is the permitting authority.

# States & Stormwater Controls Trends

- \* Regulating and Reducing Flow
- \* Performance Requirements in permits
- \* Second generation permits discharging into waters under a TMDL which include tighter water quality standards or may have impervious surface retrofit requirements.
- \* Development of standards incorporating on-site retention requirements

# Absence of a National Rule

- \* Several states already including post construction standards in permits before EPA signaled action
- \* Some states plan to move ahead even with National rule
- \* Others will wait until EPA acts





# Stormwater Management Controls & Regulations

- \* Several Different ways to include SW controls into permits
  - \* Numeric Post Construction Standards
  - \* Water Quality Based Effluent Limits
  - \* Implementation of Specific Controls
  - \* Other
    - \* Review & Approval of TMDL Plans
    - \* Monitoring & Modeling Requirements
    - \* TMDL Related Annual Reporting Requirements



# Numeric Standards

- \* The 2013 Phase I City of Stamford, Connecticut, MS4 permit requires that the permittee incorporate the use of runoff reduction and low impact development (LID) practices into their land use regulations to meet a goal of maintaining post-development runoff conditions similar to pre-development runoff conditions.
- \* The 2010 Tennessee general permit for discharges from projects greater  $\geq$  to one acre, management measures that are designed, built, and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no stormwater runoff being discharged to surface waters.

# Numeric Standards

- \* The 2013 California general permit for discharges requires that projects are designed to evapotranspire, infiltrate, harvest and use, and biotreat stormwater to meet hydraulic sizing design criteria:
  - \* **volumetric** criteria (approximately the 85th percentile 24-hour storm runoff event or the volume of annual runoff required to achieve 80% or more capture) or
  - \* **flow-based criteria** (the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity).

# Water Quality Based Effluent Limits

- \* Based on TMDLs
- \* Varying Approaches
  - \* Numeric effluent limits
  - \* Require specific control measures consistent with Water Quality Standards or Waste Load Allocations.
- \* **Virginia General Permit** requires dischargers in the Chesapeake Bay watershed to reduce loadings from nitrogen, phosphorus and TSS from existing developed lands by 5%; requires a 5% offset of increased loads from new construction projects.

# Specific Stormwater Controls or Management Measures

- \* The 2014 **WDOT MS4 permit** includes specific mandated action items for WDOT that are associated with individual TMDLs.
  - \* Identify illicit sources of pollution
  - \* Apply BMPs
  - \* Perform remediation to correct



# Specific Stormwater Controls or Management Measures

- \* The 2013 PA General Permit requires that permittees develop, submit for approval, and ensure implementation of an MS4 TMDL Plan that is designed to achieve pollutant reductions requirements of the applicable WLAs.
  - \* list of nine alternative TMDL Control Measures for permittees to consider for reducing pollutants consistent with applicable WLAs.



# Other Approaches

- \* Develop Plan & Get Approval
  - \* provides additional level of assurance that the proposed plan will be consistent with the assumptions and requirements of any available WLA in an approved TMDL.
- \* 2012 VT General Permit requires permittees that discharge to a stormwater-impaired water with an approved TMDL to submit, within 3 years of the permit issuance date, a Flow Restoration Plan for state review and approval.

# Other Approaches

- \* 2012 GA General Permit requires existing permittees discharging to impaired waters with an approved TMDL to develop and submit for review and approval to the permitting authority an Impaired Waters Plan (for MS4s with a population of < 10,000) or a Monitoring and Implementation Plan (for MS4s with a population of > 10,000).



# Other Approaches

- \* 2013 MN General Permit requires each applicant to submit its Stormwater Pollution Prevention Program (SWPPP) document compliance schedule for addressing applicable WLAs with the following required elements:
  - \* Interim milestones, expressed as BMPs or progress toward implementation of BMPs to be achieved during the term of this permit
  - \* Dates for implementation of interim milestones
  - \* Strategies for continued BMP implementation beyond the term of this permit
  - \* Target dates the applicable WLA(s) will be achieved

# Integrated Stormwater & Wastewater Planning

\* 2011 Memo: *Integrated Municipal Stormwater & Wastewater Planning Approach Framework*

\* Focuses on

- \* Prioritization
- \* Sequencing
- \* Maximizing Resources



# Integrated Planning Principles

- \* Maintain **existing regulatory standards** that protect public health and water quality
- \* Allow a municipality to balance various CWA requirements in a manner that addresses the most pressing public health and environmental protection issues first
- \* The responsibility to develop an integrated plan rests with municipalities

# Integrated Stormwater & Wastewater Planning

## Benefits:

- \* Preserves Current Requirements & No Backsliding
- \* Encourages Collaboration
- \* Plans are Locally Driven
- \* Provides Needed Flexibility & Ability to Prioritize
- \* Allows for Innovative Approaches & Adaptive Management

## Drawbacks:

- \* Expensive to Prepare; Ability of Smaller Communities to take advantage of approach
- \* Balance between Permits & Enforcement Unclear
- \* Affordability & Financial Considerations
- \* Limited to Wastewater & Stormwater
- \* Potential for Inconsistent Implementation
- \* Potential Legal Risks

# Conclusion

- \* States are focused on regulating & reducing stormwater pollution
  - \* Expect trends to continue in absence of Federal rule
- \* Variety of ways to include SW controls into permits
- \* Interested in pursuing innovative integrated approaches but waiting to see more models.



# Questions

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