

Stormwater Science and Technology Construction & Development ELGS

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Construction & Development ELG

- All Construction & Development (C&D) Sites
 - ≥ 1 acre disturbed land
 - Implement Erosion and Sediment (E&S) and P2 BMPs
- Effluent Limitation Phase-in
 - 280 nephelometric turbidity units (NTU)
 - August 1, 2011, sites >20 acres
 - February 2, 2014, sites >10 acres
- Disturbed Area Includes
 - entire site (all outfalls)(includes non-contiguous areas and all run-on)
- C&D rule scope represents $< 1\%$ of total sediment loads

SBA and NAHB Petitions

- April 20, 2010 – SBA filed petition (APA § 553(e)) with EPA seeking reconsideration of EPA's C&D ELG final rule (NAHB June)
- ATS vs. PTS confusion – no schematics
- Limits/costs calculation errors
- Data underlying 280 NTU actually reflects a properly derived limit of 793 NTU
- \$953M annual cost more likely \$9.7B
- Action level in lieu of numeric limit?

C&D ELG Development Keys

- No industry questionnaire
- No comprehensive analytical monitoring
- 100% reliance on vendor/academic data
- Critical data missing from vendors
- SEATAC Runway Data
- Assumptions drive decision-making?
- See slide 2...

C&D ELG Litigation

- National Association of Home Builders and Wisconsin Builders Association filed petitions for review, ending up in 7th Circuit
- 7th Circuit denied NGO intervention (EPA defends)
- Utilities Water Act Group filed a separate petition on April 13, 2010
- EPA denied NAHB request to postpone briefing to assess SBA/NAHB petitions, resolve docket issues
- NAHB filed opening brief, precipitating DOJ and EPA to seek vacature and remand of 280 NTU standard (by February 15, 2012) if accepted by 7th Circuit as filed

Post Construction Stormwater Rule

- 2010 Information Collection Request (ICR)
 - Data Collection
 - Questionnaires to “regulated community”
 - EPA Listening Sessions
- Goal: New Rule by 2012
 - All new/redeveloped sites stormwater characteristics mirror *predevelopment conditions* in terms of quantity, velocity, quality (pollutants/temperature/etc.)?
 - MS4 transition to direct discharge pretreatment program – locals become regulator and “permits for parking lots”
- Chesapeake Bay TMDL Settlement

Chesapeake Bay TMDL

- TMDL (nitrogen, phosphorus, and sediments)
- 64,000 sq. mile watershed (in six states and D.C) by December 31, 2010
- Accountability measures if states do not implement the TMDL in accordance with EPA expectations.
- New federal regulations for municipal separate storm sewer systems, post-construction runoff, and concentrated animal feeding operations.
- “Model for the rest of the country...”

