

THE NRG REPORT

STORMWATER & CONSTRUCTION ACTIVITY UPDATES

As of March 10, 2003, projects that disturb 1-acre or more of land need to comply with the United States Environmental Protection Agency (EPA) stormwater permit requirements. Previously, only projects that disturbed 5-acres or more of land needed permit coverage. The requirements apply to both public and private projects.

With increased awareness and concern surrounding erosion and run-off issues at construction sites throughout the country, the United States EPA has instituted new Federal requirements dealing with both stormwater and construction activity. Previously, construction activities that disturbed 5 or more acres of land required specific permit coverage. As of March 10, 2003, construction activity zones requiring permits have been extended to include sites encompassing as little as 1-acre of land, as well as smaller sites that are part of a *larger common plan of development or sale*.

Rainwater alone has the potential to carry sediments, fertilizers, oils, and other pollutants to nearby streams, ponds, lakes, rivers, and wetlands, resulting in negative impacts to fish, wildlife and water quality. Some of the other areas of concern surrounding construction site erosion include:

- *damaged slopes and structures;*
- *clogged drainage systems;*
- *flooding; and*
- *complaints from neighbors.*

With improperly managed construction activity at a 1-acre site yielding an erosion factor of anywhere from 20 to 150 tons of sediment in a one year period of time, *operators of regulated construction sites in Massachusetts are required to develop and implement a Storm Water Pollution Prevention Plan (SWPPP), and to obtain permit coverage from the EPA.* The SWPPP needs to identify how the construction operator at the site plans on preventing erosion, controlling sediment loss and keeping pollutants from contaminating stormwater and nearby waters. It is imperative that the SWPPP is kept at the site's location, and not returned to the EPA. Also, many towns may require, or ask to see, such SWPPP documents.

In order to confirm that you have met the updated Federal guidelines, the operator needs to:

1. **submit a Notice of Intent (NOI) to the EPA. The NOI is available on the EPA's website at <http://cfpub1.epa.gov/npdes/stormwater/cgp.cfm>, and can be mailed directly**

to the EPA's office, or submitted electronically by going to <http://cfpub1.epa.gov/npdes/stormwater/enoi.cfm>.

2. **To confirm your coverage through the EPA, check the EPA's website <http://cfpub1.epa.gov/npdes/stormwater/noi/noisearch.cfm> to view your posted NOI.**
3. **You will be authorized under the permit, once your NOI has been entered into an "Active" status. You can also contact the EPA's NOI Processing Center directly at (866) 352-7755 to speak with someone regarding the status of your permit.**

It is the responsibility of the operator to ensure that the NOI is in an "Active" status before commencing work at the site, in order to avoid potential fines. Once construction activities at the site are complete, the operator must file a Notice of Termination (NOT) with the EPA within 30 days of completion of the project. This document can be accessed at the same website as that of the NOI.

In Massachusetts, construction operators must meet the permit conditions of the Construction General Permit, or CGP. The CGP *outlines a set of provisions*, which the construction operator must follow, in order to comply with the requirements of the NPDES stormwater regulations. The permit can be found online at the EPA's website at <http://cfpub1.epa.gov/npdes/stormwater/cgp.com>. For more information on the CGP permit, you can also contact the EPA's Abby Swaine at (617) 918-1841, or via email at swaine.abby@epa.gov.

The EPA would like to make sure that people are also aware that they have taken active measures (*i.e.*, fines) against those individuals who are choosing not to comply with these new Federal regulations. To help ensure compliance, written notices, web sites, workshops, and other specially designed marketing strategies, are being provided by the EPA. If you would like to know more about the EPA NPDES stormwater program, please contact Norfolk Ram Group, LLC's (Norfolk) Michael F. Clark, P.E., at (508) 747-7900, extension 193, or via email at mclark@norfolkram.com. Norfolk ran also be accessed on the internet at www.norfolkram.com.



IN THE NEWS: THE ENVIRONMENTAL PROTECTION AGENCY

The United States Supreme Court ruled that the Environmental Protection Agency (EPA) can override state officials, and order some anti-pollution measures, which may be more costly in cases when the agency can show that the state regulators have unreasonably given an industry the right to expand emissions in pollution-free areas.

This 5-4 ruling came as a result of the EPA's involvement in a decision where EPA officials over-ruled a decision by regulators in Alaska, which would have allowed the world's largest zinc mine, Red Dog Mine, located near Kotzebue, to utilize cheaper, and less efficient means of anti-pollution equipment, in order to generate power.

Justice Ruth Bader Ginsburg argued that the EPA holds *supervisory authority over the reasonableness of state permitting.* In contrast, the four dissenting justices argued that the ruling *weakened a states' ability to control their environmental policies...and was in conflict with the administrative laws and principles which preserve the integrity of the states in our federal system.*

If you would like to know more about the EPA permitting process, please contact Norfolk Ram Group, LLC's (Norfolk's) Brian V. Moran, P.E. at (508) 429-2368, extension 12, or via email at bmoran@norfolkram.com. Norfolk can also be accessed on the web at www.norfolkram.com.

The Environmental Protection Agency's (EPA's) Office of Enforcement and Compliance Assurance has released new guidance on the Supplemental Environmental Projects (SEP) policy, in order to encourage violators to undertake projects that benefit both the environment and public health.

A SEP is *part of an enforcement settlement associated with the violation of an environmental statutory or regulatory requirement.* Within the parameters of the enforcement settlement, a violator may voluntarily agree to undertake an environmentally beneficial project, in order to receive a reduction in the associated penalty. The overall goal of the policy, is to encourage the *regulated community to propose environmentally beneficial projects.* As part of this policy change, the EPA is also compiling an SEP Library, which will be accessible when situations arise where an environmentally beneficial project is being considered, in exchange for a reduction in penalty.

If you would like to know more about the EPA's SEP policy or SEP Library, please contact Norfolk Ram Group, LLC's (Norfolk's) Brian V. Moran, P.E. at (508) 429-2368, extension 12, or via email at bmoran@norfolkram.com. Norfolk can also be accessed on the web at www.norfolkram.com. You can also visit the EPA's website directly at www.epa.gov, in order to learn more about the position of the EPA on various environmental issues, as well as to suggest potential project ideas for the SEP Library.

We're on the web:
www.norfolkram.com



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ENGINEERING THE ENVIRONMENT

Norfolk Ram Group, LLC is a full-service environmental and civil engineering consulting firm specializing in environmental compliance, permitting, assessment, design/build remediation, and civil engineering.

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