

Minnesota CLE

Stormwater Regulatory Update **Nicholas Nelson**

Barr Engineering Co.
December 11, 2013

federal stormwater update

- national stormwater rulemaking
- efforts to regulate stormwater flow
- EPA's multi-sector industrial general permit (EPA-MSGP)

national stormwater rulemaking

- December 2009 construction and development ELG rule
 - proposed 280 NTU limit
 - rule challenged and withdrawn
- Chesapeake Bay TMDL
 - latest deadline: June 10, 2013
- ongoing negotiations with EPA and NGOs
 - costs, benefits
- rule to OMB in 2014

regulation of stormwater flow

- flow TMDLs
 - litigation
- MS4 permits

EPA-MSGP

- notice in Federal Register: September 27, 2013
- comments due December 26, 2013
- states where EPA is permitting authority
- 29 regulated sectors

EPA-MSGP key issues

- NEPA review for dischargers subject to NSPS
- electronic reporting
- narrowing scope of allowable non-stormwater discharges
- ESA compliance
- greater access, more detailed SWPPPs
- meeting WQBEL
- expanding anti-degradation mandates

EPA-MSGP key issues (cont.)

- added benchmark values for saline waters
 - risk-based monitoring protocol
- industry-sector-specific
 - metal mining: exploration activities now covered
 - air transportation: compliance w/ELGs for de-icing
- discharges to CERCLA sites restricted/prohibited

Minnesota update

- MN-MSGP for industrial facilities
- current permit expires April 2015
- MPCA currently drafting potential changes
- anticipate revisions will speak to EPA-MSGP revisions

MN-MSGP key issues

- streamline sampling calendar
- require four samples before averaging
- continue quarterly sampling until results fall under benchmark values
- review sector-specific sampling parameters

MN-MSGP key issues (cont.)

- prohibition on construction of new infiltration device:
 - discharges from vehicle fueling and maintenance activity
 - areas with less than 3 feet of separation from bottom of device to seasonally saturated soils or top of bedrock
 - areas of predominantly Hydrologic Soil Group D unless allowed by LGU with a current MS4 permit
 - areas where soil infiltration rates are more than 8.3 in. a day unless amended to slow infiltration rate or allowed by LGU with a current MS4 permit

MN-MSGP compliance issues

- inconsistent application of “no exposure”
 - dumpster loading and unloading
 - no discharge is not “no exposure”
- snow pile and snow melt
 - appropriate snow-management measures
- meeting benchmark monitoring thresholds
 - **taking no action is a permit violation**
 - **not meeting thresholds is not a violation**

monitoring results for most common pollutants (years 2 and 4 sampling)

permit pollutant parameter	permit benchmark value (mg/L)	reported statewide avg. ⁽¹⁾ (mg/L)	reported avg., year 2 ⁽²⁾ (mg/L)	reported avg., year 4 ⁽²⁾ mg/L
aluminum	0.75	7.0	7.7	2.5
COD	120	260.0	398.5	108.3
iron	1.0	30.0	21.0	5.06
TSS	100.0	191.0	428.6	151.8
zinc	0.234	1.0	3.72	0.46

(1) average facility-reported values as of September 2013

(2) average facility-reported values sampled years 2 and 4

industry sectors applying BMPs are reducing exceedances

permit pollutant parameter	permit benchmark value (mg/L)	avg. year 2 monitoring results (mg/L)	avg. year 4 monitoring results (mg/L)	industry sector(s)
aluminum	0.75	4.14	0.25	N, AA
COD	120	575.24	50.19	A, N
iron	1.0	34.26	0.44	E, F, N, AA
TSS	100.0	361.89	30.1	A, E, F, L, M, N, P, S, U, y, AA
zinc	0.23e4	7.04	0.118	N, AA

questions
