

TOPICS



October 2008

Important Changes to National Pollutant Discharge Elimination System (NPDES) Permits

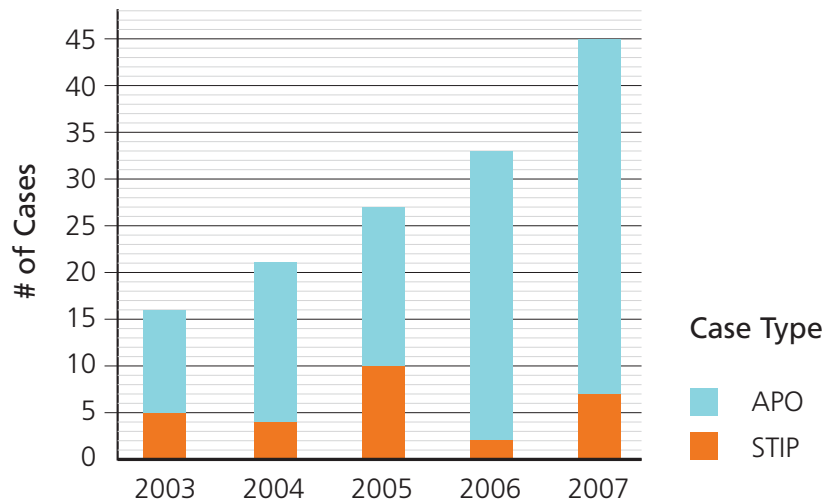
The Minnesota Pollution Control Agency (MPCA) has updated the Phase II NPDES General Construction Permit as of August 1, 2008. The changes and additions to the NPDES permit affect existing and future projects that disturb one acre or more of land. With the MPCA and their local partners conducting inspections and doing more active enforcement, complying with the updated NPDES permit is more important than ever.

Projects currently permitted under the previous NPDES permit must update their Stormwater Pollution Prevention Plan (SWPPP) to comply with the new requirements by February 2010. All projects not permitted as of August 1, 2008, must apply for and meet the newest permit requirements. The major changes and additions to the NPDES permit are summarized below.

CHANGES

- General Stabilization Requirement:** Although the previous permit required stabilization of slopes in proximity to water within a certain period of ceasing active construction, all exposed soils must now be stabilized within 14 days regardless of slope.
- Ditch Stabilization:** As before, ditches and swales within 200 feet of surface waters need to be stabilized within 24 hours. Now, the portion of the ditch beyond 200 feet must also be finished and stabilized within 14 days of ceasing construction activity, though there are exceptions for ditches used in temporary sediment containment.
- Concrete Washout Control:** While concrete washout control was already required to prevent entry into surface waters, now all liquid and solid waste material must be contained and controlled within a washout area with an impervious liner and appropriate signage.

Construction Stormwater Enforcement Numbers



The graph illustrates the increased enforcement of NPDES permit requirements in recent years (2003 - 2007). Administrative Penalty Orders (APO) involve \$10,000 fines, and Stipulation Agreements (STIP) entail fines greater than \$10,000. *Source of data: MPCA*

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- **Impaired and Special Waters:** Previously, certain Best Management Practices (BMPs) were required for discharges to special waters within 2,000 feet of the project. Discharges to waters with an approved Total Maximum Daily Load (TMDL) also had specific requirements, including MPCA review for projects disturbing 50 acres or more. Additional BMP requirements are now needed for projects discharging water within one mile of special or impaired waters as listed by the MPCA, whether or not the TMDL has been approved.
- **Permit Forms and Application:** Attempts to streamline the paperwork of NPDES include a single new form for all permit transfer, modification, and termination requests, and an option for online application that shortens the coverage wait period from 7 days to 2 days.

ADDITIONS

- **Training Requirement:** The new permit requires documented training (by February 2010) for at least one individual involved in preparing the SWPPP, overseeing SWPPP implementation and revisions, and performing inspections, installation, repair or maintenance of BMPs.
- **Preliminary Project BMP Tabulation Sheet:** The estimated number of erosion and sediment control BMPs expected to be used during the project's life span must be included in a tabulation sheet with the SWPPP.
- **Long Term Operation and Maintenance:** Permanent stormwater management systems (Wet Sedimentation Basins and Infiltration Basins) must be designed and built with an adequate maintenance access. Additionally, a maintenance plan must identify who will perform future maintenance of the system. Typically, maintenance accesses are 8 feet wide and accessible to vehicles, and the maintenance is performed by the city, another local governmental unit, a homeowners association, or private landowners.

Although these changes involve more detailed technical specifications than included here, this summary demonstrates that the new NPDES permit is broader in scope than ever and likely to impact most land development projects. Be sure your next project stays in compliance by understanding the most up-to-date requirements.



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