

Alert: EPA Publishes New Storm-Water Regulations

By Alan Petrov

On January 9, The EPA released proposed Phase II Storm-Water Regulations. If adopted in their current form, these regulations will dramatically impact hundreds of small municipalities and water districts across the State of Texas.

Phase I of the EPA's program was adopted in 1990 and required permits for storm-water discharges from cities and counties with populations greater than 100,000.

The new EPA proposal for Phase II mandates that all cities, counties, water districts and other governmental jurisdictions (for example, universities and military bases) located in urbanized areas must obtain an NPDES permit for storm-water discharges. In addition, the proposed regulation reduces the threshold requirement for obtaining a construction storm-water permit from five acres to one acre, and it repeals the permit exemption for industrial facilities operated by municipalities with populations less than 100,000. Such industrial facilities include wastewater treatment plants, vehicle maintenance facilities, and construction sites.

The proposed requirement of national pollution discharge elimination system (NPDES) permits for storm-water discharges from small municipalities and water districts will impose substantial new burdens on local governments.

Under the EPA's proposed regulations, small municipalities and water districts will be required to comply with a permit that addresses the following:

- 1) Construction site storm-water runoff control. Cities and water districts will be required to adopt regulations governing storm-water discharges from construction sites with more than one acre of land disturbance.
- 2) Post-construction storm-water management in new development. Cities and water districts will be required to develop, implement and enforce a program to address storm-water runoff from both new development and re-development projects.
- 3) Illicit discharge detection and elimination. Cities and water districts will be required to develop a storm sewer system map detailing their underground and above ground storm-water drainage system, adopt regulations prohibiting illicit discharges and implement an inspection program to detect such discharges.
- 4) Public education and outreach on storm-water impacts. Cities and water districts will be required to distribute educational materials to the community about the impact of storm-water discharges and the steps to be taken to reduce storm-water pollution.
- 5) Public involvement and participation. Cities and water districts must comply with State and local public notice requirements.
- 6) Pollution, prevention and good housekeeping. Cities and water districts will be required to reduce pollutant runoff from their own facilities and operations.

For each of these six minimum requirements, cities and water districts will be allowed to choose from a yet to be developed State and EPA approved list, the best management practices to be implemented. They will also be required to set measurable goals for each of the six requirements and prepare compliance reports documenting and evaluating their progress toward achievement of the identified goals.

The EPA is taking comments on its proposed regulations through April 9. Additional information concerning the EPA's proposed regulations can be obtained by contacting Alan Petrov at Johnson, Radcliffe & Petrov, L.L.P. at (281) 872-1221 or by using the fax back form at the end of this newsletter.