

US EPA ARCHIVE DOCUMENT

STATE INNOVATION GRANT PROGRAM PRE-PROPOSAL
Funding Opportunity Number EPA-AO-OPEI-06-01
CFDA Number 66.940, Environmental Policy and Innovation Grants
Due date: January 20, 2006

1. PRE-PROPOSAL PROJECT SUMMARY INFORMATION PAGE

Project Title and Location: Development of an Environmental Management System to Facilitate Compliance with NPDES Construction Storm Water Permit Requirements, New Mexico state-wide applicability (excluding tribal lands which are outside of the jurisdiction of the Department)

Department: New Mexico Environment Department (**Department**), Surface Water Quality Bureau in cooperation with stakeholders including the Energy, Minerals and Natural Resources Department, Department of Transportation, and the Construction Industries Division

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Is Project being executed in cooperation with or funded by another Federal program? No.

Regulatory flexibility needed? Unknown at this time.

Secretary endorsement? This project is endorsed by Ron Curry, Secretary, NMED

2. PRE-PROPOSAL PROJECT NARRATIVE

Summary of the Problem Being Addressed

New Mexico announced its intentions to seek delegation of the NPDES Program in 2004 and has been working closely with EPA's Region 6 office to achieve its goal. The state expects to obtain primacy and begin issuing and enforcing NPDES permits in early 2008. This effort is driven by New Mexico's quest to enhance protection of the state's limited water resources. As part of its delegation efforts, New Mexico is working with a stakeholder group to develop a program that complies with Clean Water Act requirements and is appropriate and effective for a semi-arid state. In particular, stakeholders have expressed interest in working with NMED to develop an Environmental Management System (**EMS**) that addresses the unique regulatory challenges associated with a geographically large, semi-arid state. Current stakeholders have been meeting since October 2004 and include:

- State agencies (Environment, Energy and Minerals, Transportation)
- Construction (commercial and residential)
- Agriculture (primarily CAFOs)
- Mining (hard rock and coal)
- Municipalities
- Federal facilities
- Industrial facilities
- Oil and gas
- Environmental interests
- Tribal/pueblo interests

New Mexico is the 5th largest state geographically in the United States and is ranked 36th in terms of population. Additionally, New Mexico ranks third in the country with regard to the percent of people living below the poverty level (US Census Bureau, 2004 American Community Survey). This results in the state having a small tax base to fund government programs and a large geographic area requiring regulatory coverage. Therefore, New Mexico continually faces the challenge of developing innovative programs to ensure that limited government resources are available to address the most pressing environmental issues.

NPDES construction storm water permitting is one area where New Mexico must incorporate innovations as part of its primacy program in order to manage the large number of construction sites requiring permit coverage. It is estimated that there are as many as 20,000 sites in New Mexico that require NPDES construction storm water permit coverage. These sites range in location from more urbanized areas along the Rio Grande corridor to rural areas located in remote, high desert locales. Additionally, local government ordinances and expertise regarding storm water control range from non-existent, to sophisticated municipalities with experienced staff.

This proposal has benefits for both EPA and the state of New Mexico. First, the proposal builds on an existing stakeholder group and addresses the needs of both the state and the

regulated community. Having stakeholder buy-in up front increases the likelihood of project success, which helps both EPA and the state achieve their goals. Second, the Department has an excellent reputation for building successful working relationships that yield innovative and positive environmental results. The Department's Watershed Protection Program has had great success bringing the state and local communities together to develop and implement innovative watershed restoration projects. Finally, successful implementation of a state NPDES program is one of the top priorities for the Department, and has strong support from EPA Region 6. This project addresses one of the remaining NPDES program gaps identified by stakeholders and will help to ensure a successful state program.

Project Goals

New Mexico proposes to address construction storm water permitting issues by developing a NPDES Construction Storm Water Permitting EMS that would be available for use when the state assumes NPDES primacy. The goals of the EMS would be to provide a flexible regulatory approach that is tailored to the unique characteristics of geographically large, and relatively arid western states, while at the same time ensuring compliance with Clean Water Act requirements. The Department and its NPDES stakeholder workgroup have identified the following innovations as being necessary to meet these goals. The New Mexico primacy contact for EPA Region 6 has been apprised of these issues through monthly coordination conference calls and draft NPDES primacy documents.

- Identification of environmentally sensitive areas and prioritization of storm water inspection and enforcement activities to allow the state to focus on environmentally sensitive areas. For example, the EMS could identify environmentally sensitive areas based on the site's potential for contribution to a water listed as impaired on the state's Clean Water Act 303(d) list, or other factors such as being located in proximity a tributary of a sensitive wetland area.
- Partnerships with local governments and other state agencies to provide outreach and educational resources so that state and local services associated with construction activities (such as issuance of building permits) provide assistance and encourage compliance with NPDES construction storm water permit requirements. For example, the state could work with local governments to include a building permit addendum that provides information on NPDES construction storm water permit requirements.
- Development of consultation/compliance assistance services to assist site operators in complying with NPDES construction storm water requirements. The state has committed to provide consultation services in addition to routine inspection/enforcement activities. The EMS could help to identify the best model for a sustainable consultation program.

- Partnerships between EPA, the state and affected industries to recognize and reward businesses/agencies that consistently perform well and incorporate their own innovations in NPDES construction storm water permit activities. Tasks associated with this goal will be coordinated with the state's Pollution Prevention/Green Zia program and would be designed to encourage businesses to develop cost-effective and innovative BMPs for source reduction.
- Establishing and maintaining an effective outreach program to assist the construction industry in understanding storm water regulations and permit requirements. The Department routinely provides training regarding EPA's Construction General Permit (CGP) to industry groups and government agencies. The EMS would provide additional customer service tools that more effectively address outlying rural areas and businesses that fall outside of traditional trade group seminars.

Demonstrated Link to EPA's Five Strategic Goals

This proposal is consistent with the following components of EPA's Innovation Strategy and EPA's Strategic Plan:

- *Focus on environmental performance and results* – The EMS to be developed under this proposal will emphasize regulatory and non-regulatory approaches to compliance, and will forge partnerships with stakeholders and other agencies.
- *Emphasize partnership and stakeholder collaboration* – Successful development and implementation of the EMS for construction storm water permitting will require involvement of the regulated community to achieve innovative, appropriate and effective environmental solutions.
- *Strategic Plan Goal 2, Clean and Safe Water* – Successful implementation of a state construction storm water permit program that is protective of surface water quality is dependent on EPA, the state and the regulated community embracing the innovations to be developed under this proposal. Specifically, this project supports:
 - Objective 2: Protect Water Quality
 - Subobjective 2.2.1: Protect and improve water quality on a watershed basis.
 - Outcomes/Output Measures: WQ-20, WQ-22 regarding construction permitting and reduction of pollutants from storm water regulatory controls.

Expected Environmental Outcomes

New Mexico will measure success of this project through:

- Ongoing rotational monitoring of the state's surface waters to ensure that stormwater impacts are addressed in a holistic and far-sighted manner. Performance will be measured through an analysis of data collected in support of the state's Integrated

305(b) and 303(d) Report. This measure will be effective during project implementation (within one to three years) and after the EMS has been implemented for several years (three years and longer).

- Creation of a successful state/industry/stakeholder partnership that is able to cooperatively develop outreach, education and compliance assistance tools and to monitor success of EMS implementation. Performance will be measured through focused surveys of partnership participants to determine whether the assistance tools are effective, and whether participants' core issues are being addressed in a meaningful and productive way. This measure will be effective during project implementation (within one to three years).
- Increased compliance with construction storm water permit requirements. Current estimates are that approximately 8 to 16% of facilities/sites required to have permit coverage have submitted a Notice of Intent and implemented an effective Storm Water Pollution Prevention Plan. Performance will be measured through tracking of NOIs and site inspection data to determine compliance rates, geographic areas or industry sectors that need additional assistance, and success of local government assistance programs. This measure will be useful after the EMS has been implemented for several years (three years and longer).
- Increased industry/local government awareness of NPDES stormwater requirements and development of self-monitoring tools. Performance will be measured through surveys developed and implemented by the stakeholder group that focus on the success of industry and local governments' self-monitoring efforts. This measure will be useful after the EMS has been implemented for several years (three years and longer).
- Increased agency administrative efficiency and cost savings to the regulated community. The Department's goal will be to reduce agency time spent on enforcement activities and the amount of penalties paid for non-compliance, while increasing overall compliance rates. Performance will be measured through internal tracking of enforcement and compliance rates, as well as surveys of the regulated community which focus on whether the state's regulatory framework makes it is easy and inexpensive to comply and provides incentives for compliance. This measure will be useful after the EMS has been implemented for several years (three years and longer).

Transferring the Innovation and Public Participation

This project will be conducive to replication/application to other arid western states, tribes and pueblos because it addresses core stakeholder and agency resource issues as they relate to an ever-increasing industry sector (construction).

Information regarding successes and failures of the EMS will be made available to EPA, and stakeholders, including the regulated community and local governments, through

electronic news releases and quarterly reports. Results will also be shared at state/EPA coordination meetings and will be used to continually improve the EMS and its implementation within the Department. Additionally, project implementation and results will be discussed during regular NPDES stakeholder workgroup meetings which are open to the public and noticed through the Department's website.

The current New Mexico NPDES primacy project website can be viewed at:

<http://www.nmenv.state.nm.us/swqb/NPDES/index.html>.

Stakeholder resolutions and position papers can be viewed under:

[“Advisory Group Essentials”](#).

Project Schedule and Timeline for Key Milestones

Activity 1: Identification of state/industry/stakeholder participants and creation of EMS development workgroup (will likely be a subgroup of current stakeholder workgroup).

Target timeframe: 3 months from grant award

Activity 2: Development of an EMS for construction storm water permitting

Target timeframe: 2 years from grant award

Sub-activity 2.1: Identification of environmentally sensitive areas, prioritization of storm water inspection and enforcement activities. (See Project Goals above.)

Target timeframe: End of year 1

Sub-activity 2.2: Development of incentives for businesses/agencies that consistently perform well and incorporate their own innovations in NPDES construction storm water permit activities. (See Project Goals above.)

Target timeframe: End of year 2

Sub-activity 2.3: Development of outreach tools including partnerships with local governments and other state agencies involved in construction activities and development of consultation/compliance assistance services to assist site operators in complying with NPDES construction storm water requirements. (See Project Goals above.)

Target timeframe: End of year 2

Activity 3: Development of long and short-term performance measurement tools to ensure EMS implantation is successful (See Expected Environmental Outcomes above).

Target timeframe: End of year 2

3. PRE-PROPOSAL BUDGET SUMMARY

[Withheld by EPA]