

RTOC Meeting

Clean Water Act Workgroup

July 27, 2011 10:35-11:35 AM

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Clean Water Act Update Topics

RTOC Meeting (July 27, 2011)

❖ National Water Quality Standards Rulemaking

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Areas for WQS Reg Revision

Workgroup identified following key areas for revision in WQS regulation

- ❖ **Antidegradation:** Require implementation methods to be adopted in rule and specify minimum requirements.
- ❖ **Administrator's Determination:** Clarify what constitutes an Administrator's determination that new or revised standards are needed.
- ❖ **Uses:** When a 101(a)(2) use is unattainable, require adoption of the highest attainable use below the 101(a)(2) goals.
- ❖ **Variances:** Establish regulatory requirements for variances.
- ❖ **Update Regulations to Reflect Recent Court Decisions:** Definition of a WQS, WQS authorization to issue permit compliance schedules, WQS submittal requirements.

Schedule: Proposed rule by ~January 2012.



Clean Water Act Update Topics

RTOC Meeting (July 27, 2011)

- ❖ Tribal 401 Certification for
Army Corps Nationwide Permit Program

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Tribal 401 Certification for Army Corps Nationwide Permit Program

- ❖ Nationwide Permit Program
 - Program purpose & background
 - NWP renewal 2012
- ❖ EPA 401 Certification for Non-Certifying Tribes
- ❖ Proposed 401 Certification & Consultation Process
 - Draft Certification and consultation letter provided
 - Tribal review & comment
 - Final 401 Certification issued
- ❖ Army Corps Schedule
 - Dec 2011 Corps publishes final NWPs and national conditions
 - March 19, 2012 NWPs and conditions go into effect



Clean Water Act Update Topics

RTOC Meeting (July 27, 2011)

- ❖ Construction general stormwater permit
- ❖ Vessel general permit
- ❖ National stormwater rulemaking

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EPA Construction General Permit (CGP)

- ❖ Issued on June 30, 2008
 - On July 8, 2011 EPA extended the expiration date to February 15, 2012 from the previous June 30, 2011
- ❖ Covers all Tribal lands in Region 9 (CA, NV and AZ) and most Tribal lands elsewhere
- ❖ Prepare stormwater pollution prevention plan (SWPPP)
- ❖ Submit notice of intent (NOI) requesting permit coverage



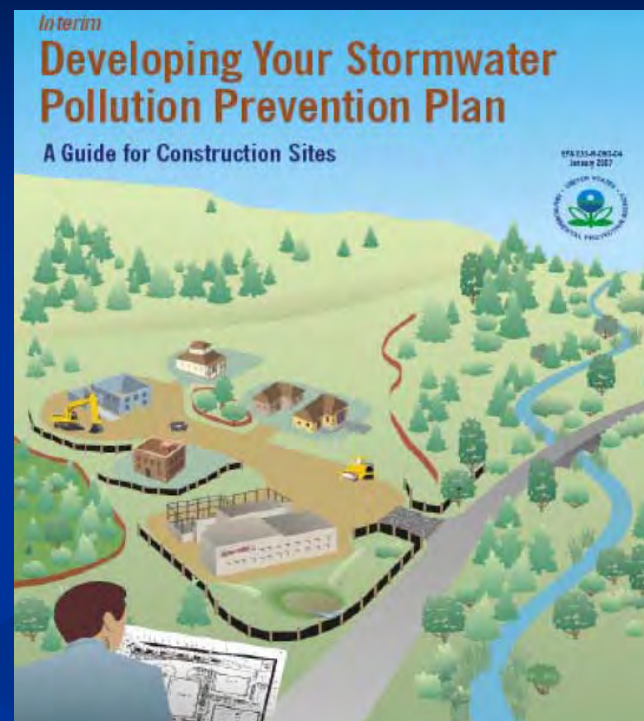
2011 Proposed CGP

- ❖ New CGP proposed April 25, 2011 to replace existing CGP in February 2012
- ❖ SWPPP and NOI requirements
- ❖ Incorporates most 2009 effluent guidelines for construction
- ❖ Placeholder for numeric turbidity limit – EPA is currently revising the 2009 limit of 280 NTU
- ❖ EPA anticipates finalizing new turbidity limit in time to incorporate into the final CGP in February 2012.



EPA SWPPP Resources

- ❖ EPA SWPPP Guide
- ❖ SWPPP Template (MS Word)
- ❖ Self-Inspection Form
- ❖ Example SWPPPs for two hypothetical projects
 - Residential
 - Commercial
- ❖ http://cfpub.epa.gov/npdes/home.cfm?program_id=6
- ❖ <http://www.cicacenter.org/> (compliance assistance website for construction)



EPA Vessel General Permit (VGP)



VGP Issuance

- ❖ Permit issued in response to 2006 court decision
- ❖ December 19, 2008 – VGP issued and effective
- ❖ VGP effective in all 50 states and Indian lands
- ❖ VGP covers:
 - For discharges other than ballast water, permit covers all non-recreational vessels 79 feet or longer except commercial fishing vessels.
 - For ballast water discharges, permit covers all non-recreational vessels, including all commercial fishing vessels and vessels less than 79 feet.
- ❖ Permit expires December 19, 2013



VGP Reissuance

- ❖ EPA is currently preparing a new draft VGP
- ❖ Next VGP will add non-recreational ships less than 79 feet (about 120,000 to 140,000 additional ships)
- ❖ New ballast water studies (May 2011); available at:
http://cfpub.epa.gov/npdes/home.cfm?program_id=350
 - Evaluation of treatment for ballast water
 - Evaluation of organism-based effluent limits
- ❖ Reissuance schedule
 - Proposed permit – November 2011
 - Final permit – November 2012



National Stormwater Rulemaking

- ❖ Announced in December 2009 to improve the program
 - ❖ Six principal rulemaking considerations:
 - Expansion of MS4* area covered by stormwater regulations
 - Specific requirements for post-construction stormwater discharges from new development and redevelopment
 - Retrofitting existing MS4s with stormwater controls
 - Single set for requirements for all MS4s (Phase I/II)
 - Special requirements for transportation facilities (e.g. state highway departments)
 - Specific provisions for the Chesapeake Bay.
- *Municipal Separate Storm Sewer System



Expand the MS4 Areas?



- ❖ Regulated small MS4s limited to urbanized areas as defined by the Census Bureau.
- ❖ Federal regulations cover only 2% of U.S. land, while development is occurring outside this area.
- ❖ Most Tribal areas are currently outside urbanized areas



Stormwater Rulemaking Schedule

- ❖ September 2011 – proposed rule
- ❖ November 2012 – final rule



Clean Water Act Update Topics

RTOC Meeting (July 27, 2011)

- ❖ Pesticides General Permit (PGP)
- ❖ Cooling Water Intakes Rule
- ❖ NPDES Updates Rule

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EPA Pesticides General Permit (PGP)



EPA Pesticides General Permit (PGP)

- ❖ Required under 2009 court decision
- ❖ Coverage includes all Tribal lands nationwide
- ❖ Sets out Clean Water Act requirements for pesticides applications to Waters of the US
- ❖ Supplements existing FIFRA label



EPA Pesticides General Permit (PGP)

- ❖ Draft Permit released for public comment June 4, 2010
- ❖ Presented at RTOC July 29, 2010
- ❖ Draft Final Permit released April 1, 2011
- ❖ Endangered Species Act consultation ongoing
- ❖ Court Deadline: October 31, 2011

For more information, visit

<http://www.epa.gov/npdes/pesticides>



Cooling Water Intakes Rule

- ❖ Revises requirements for existing facilities, requirements for new facilities unchanged
- ❖ Facilities with design flow more than 2 MGD* would have an upper limit on impingement, or may reduce intake velocity to 0.5 feet per second
- ❖ Very large facilities – over 125 MGD – required to conduct studies and go through a public decision process
- ❖ Comment period extended to August 18, 2011
- ❖ Final Rule before July 27, 2012

For more information, see

<http://water.epa.gov/lawsregs/lawsguidance/cwa/316b/index.cfm>

*MGD: Million Gallons per Day



NPDES Update Rule

- ❖ Collects several NPDES program and procedure updates into a single rulemaking
 - ❖ 15 topics in current version, of particular interest to tribes may be:
 - Application forms updates for clarity
 - Supporting analysis for dilution & RP
 - Public Notices online
 - ❖ Plan to propose the Rule in winter 2011
 - ❖ Final Rule in summer 2012
- Rule will be available for input once proposed



Clean Water Act Update Topics

RTOC Meeting (July 27, 2011)

- ❖ Forest Roads Decision
- ❖ Carlota Decision
- ❖ Shale Gas Extraction Rule
- ❖ Sufficiently Sensitive Methods Rule

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Forest Roads

- ❖ May 2011 – 9th Circuit re-affirmed decision that Forest Roads are point sources
- ❖ Northwest Environmental Defense Center vs. Brown (Oregon)
- ❖ Ditches, culverts and channels on forest roads need NPDES permit coverage



Forest Roads

❖ July 1, 2011 EPA Letter

Forestry operations may apply for NPDES coverage under

- EPA's Multi Sector Industrial Stormwater Permit
- Or may apply for individual permits



Sanitary Sewer Overflows

- ❖ Potential rulemaking
- ❖ Prevent, respond & report SSOs
- ❖ Webcast July 14, 2011
- ❖ EPA soliciting comment



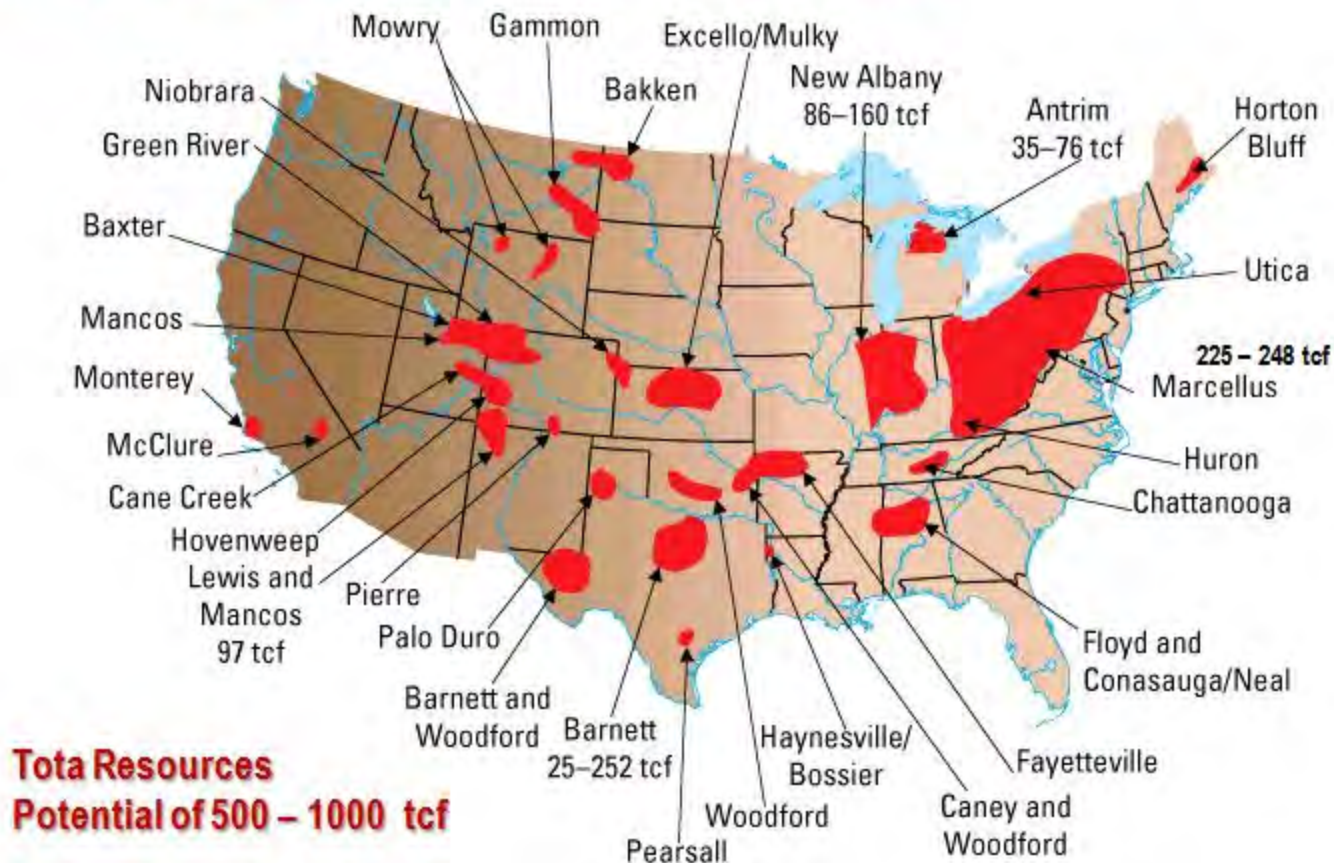
Shale gas Extraction and Hydraulic Fracturing

- ❖ Water mixed with sand, chemicals, pumped under high pressure (10,000 PSI)
- ❖ Fractures shale to release gas, water
- ❖ March 17, 2011 EPA Guidance memo & Frequently Asked Questions



Shale gas Extraction and Hydraulic Fracturing

Shale Gas Basins In The United States



Sufficiently Sensitive Methods Rule

- ❖ Codifies methods for NPDES permitting and Method Detection Levels
- ❖ June 23, 2010 EPA proposed rule
- ❖ Aug 9 comment period closes
- ❖ Final Summer 2011



QUESTIONS ?

We have 15 minutes for questions before lunch, and if we cannot get to your question you are welcome to stay after the session, or to contact us.

EPA Region 9 Water Team

