



SEDIMENT AND EROSION CONTROL SEMINAR:

A LOOK AT EPA'S CONSTRUCTION STORMWATER PROGRAM

ANGELA ACORD
ECAD-WATER BRANCH
EPA R7
913-551-7915
ACORD.ANGELA@EPA.GOV



THE ENVIRONMENTAL IMPACTS OF STORM WATER

IMPACTS OF STORM WATER

- STORM WATER FROM URBAN AREAS CAN CARRY HIGH LEVELS OF POLLUTANTS INTO STORM SEWERS AND ADJACENT RIVERS, STREAMS, AND LAKES
 - MUD/SEDIMENT
 - OIL AND GREASE
 - SUSPENDED SOLIDS
 - NUTRIENTS
 - HEAVY METALS
 - PATHOGENIC ORGANISMS
 - TOXINS
 - TRASH AND OTHER WASTE MATERIALS

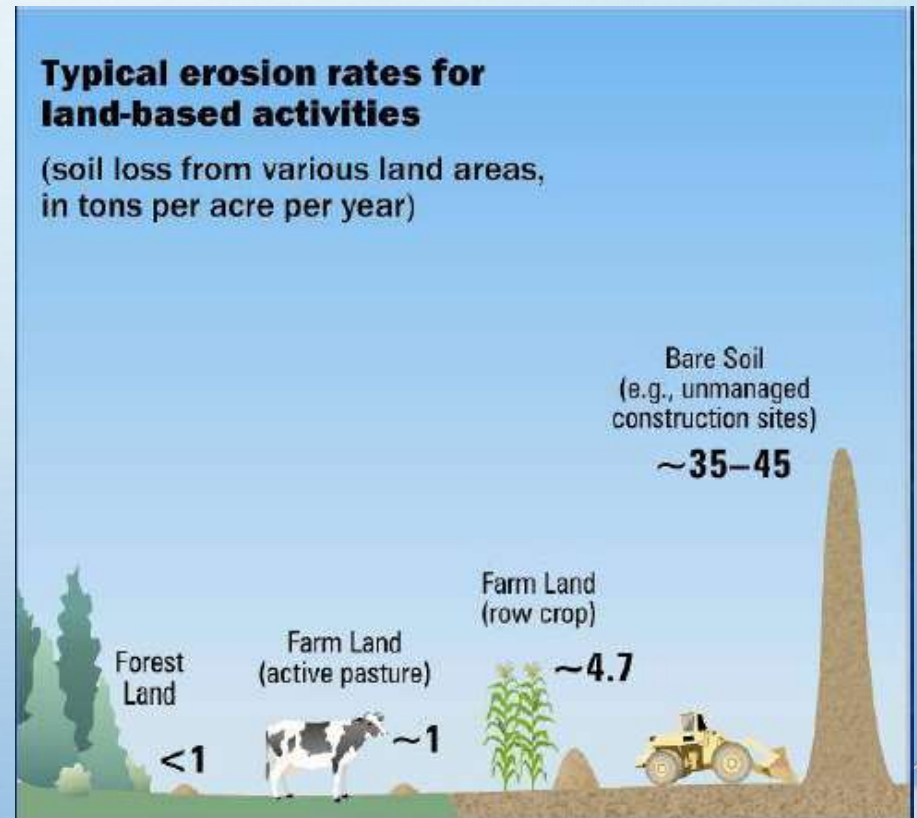


IMPACTS OF STORM WATER

- SEDIMENT LADEN RUNOFF RESULTS IN:
 - INCREASED TURBIDITY AND DECREASED OXYGEN IN THE RECEIVING WATER BODY
 - DESTROY STREAM HABITATS FOR FISH AND OTHER AQUATIC ORGANISMS
 - INCREASED DIFFICULTY AND COST OF DRINKING WATER TREATMENT
 - LOSS OF DRINKING WATER RESERVOIR STORAGE CAPACITY
 - INCREASED STREAM BANK EROSION
 - NEGATIVE AESTHETIC IMPACTS

WHY DO DISCHARGES FROM CONSTRUCTION ACTIVITIES MATTER?

- WHEN IT RAINS, STORMWATER FROM CONSTRUCTION SITES CAN PICK UP DISTURBED AND UNSTABILIZED SOILS, CARRYING POLLUTANTS SUCH AS SEDIMENT, DEBRIS, AND CHEMICALS INTO NEARBY STREAMS, OR INTO THE STORMWATER SEWER SYSTEM THAT LEADS TO STREAMS AND RIVERS



EPA'S MISSION

- TO PROTECT HUMAN HEALTH AND ENVIRONMENT
- 2018-2022 EPA STRATEGIC PLAN “A ROBUST ENFORCEMENT PROGRAM IS CRITICALLY IMPORTANT FOR ADDRESSING VIOLATIONS AND PROMOTING DETERRENCE, AND SUPPORTS THE AGENCY’S MISSION”
- CONSTRUCTION STORMWATER IS PART OF THE CWA NPDES CORE PROGRAM

EPA'S RELATIONSHIP TO STATE PROGRAMS

- THE CLEAN WATER ACT (CWA), SECTION 402 MANDATES THAT EPA RETAIN OVERSIGHT OVER AUTHORIZED STATE NPDES PROGRAMS.
 - INCLUDING STORM WATER PROGRAMS
- IN ADDITION, EPA RETAINS INDEPENDENT ENFORCEMENT AUTHORITY OF REGULATED FACILITIES (CWA SECTION 309).

WHERE DO WE INSPECT?

1. RESPONSE TO INDIVIDUAL COMPLAINTS
2. REFERRALS WE RECEIVE FROM STATE AND OTHER GOVERNMENT AGENCY'S
3. EPA REGION VII'S TARGETING PROCESS:
 - TEAM OF INSPECTORS GOES TO A METRO AREA.
 - RECONNAISSANCE OF SEVERAL SITES.
 - DETAILED INSPECTIONS OF "HIGHEST PRIORITY SITES."

HOW DO WE IDENTIFY “HIGH PRIORITY” SITES FOR DETAILED INSPECTIONS?

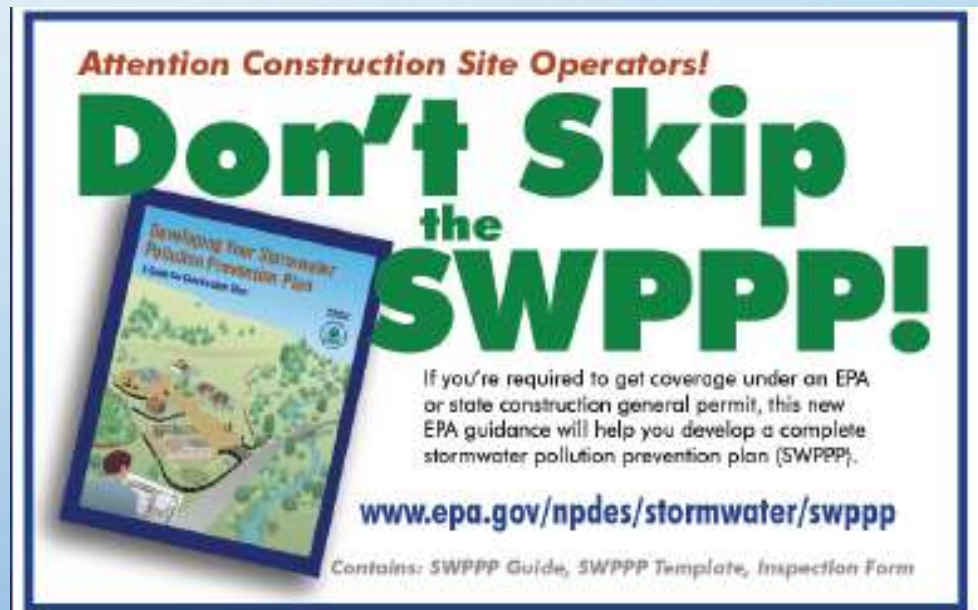
- RECONNAISSANCE (“WINDSHIELD SURVEYS”) OF SEVERAL SITES IN METRO.
- RANK SITES BASED ON:
 - SIZE OF SITE >1 ACRE DISTURBED
 - CURRENT DISCHARGES OF SEDIMENT LADEN STORMWATER OR EVIDENCE OF
 - LACK OF OR INADEQUATE BMPS
 - SEVERE TRACKOUT
 - PROXIMITY TO WATERS OF THE U.S.
 - HOUSEKEEPING & WASTE DISPOSAL PRACTICES



<https://www.mobilebaykeeper.org/construction-stormwater>

WHAT DOES THE INSPECTOR REVIEW?

- INSPECTIONS CONSIST OF TWO PARTS:
 - I. RECORDS REVIEW
 - II. SITE WALK-THROUGH



SITE WALK-THROUGH INSPECTION

- VERIFY IMPLEMENTATION OF MEASURES IN SWPPP
- VERIFY BMPS ADEQUATE TO PREVENT STORM WATER POLLUTION:
 - STABILIZATION
 - STRUCTURAL MEASURES
- INSPECT DISCHARGE POINTS/RECEIVING STREAM
- DOCUMENT FINDINGS WITH VIDEO/PHOTOS



















VIOLATIONS HAVE BEEN IDENTIFIED. WHAT NEXT?

WHAT PROCEDURES CAN YOU EXPECT? AN OVERVIEW

- EXIT INTERVIEW AT THE CONCLUSION OF INSPECTION
- NOTICE OF POTENTIAL PERMIT VIOLATIONS (NOPV)
- CWA 308 INFORMATION REQUEST
- ENFORCEMENT TOOL BOX
 - ESA ELIGIBILITY/CRITERIA/PROCESS
 - ADMINISTRATIVE COMPLIANCE ORDERS
 - TRADITIONAL PENALTY ENFORCEMENT (CLASS I OR II)
 - CIVIL JUDICIAL ACTION

EPA'S COMPLIANCE AND ENFORCEMENT TOOLS:

- REVISED INTERIM CLEAN WATER ACT SETTLEMENT PENALTY POLICY (2/28/95) APPLIES TO CWA CASES
- SUPPLEMENTAL GUIDANCE TO THE 95 SETTLEMENT POLICY FOR VIOLATIONS OF CONSTRUCTION STORMWATER REQUIREMENTS (2-5-2008).
- EXPEDITATED SETTLEMENT AGREEMENT GUIDANCE
- GOAL: PROMOTE CONSISTENT ENFORCEMENT RESPONSES TO NON-COMPLIANCE WITH THE CONSTRUCTION PROGRAM.

EXPEDITED SETTLEMENT AGREEMENTS (ESA)

- TO ENSURE THAT TIMELY AND CONSISTENT ENFORCEMENT ACTIONS ARE ISSUED AND TO ACHIEVE THE GOAL OF DETERRENCE, EPA HAS DEVELOPED AN ESA FOR CONSTRUCTION ACTIVITIES.

- AN ESA IS A LESS RESOURCE-INTENSIVE MECHANISM FOR PROCESSING WIDESPREAD VIOLATIONS ASSOCIATED WITH RELATIVELY SMALL PENALTY AMOUNTS (E.G., MINOR VIOLATORS, MINOR VIOLATIONS).
- ALLOWS FOR "REAL TIME" ENFORCEMENT IN SITUATIONS WHERE VIOLATIONS CAN BE QUICKLY CORRECTED AND A PENALTY COLLECTED WITHIN A SHORT AMOUNT OF TIME (E.G., GENERALLY A FEW MONTHS FROM DISCOVERY OF VIOLATION).

CURRENT ESA ELIGIBILITY FRAMEWORK

- NO EVIDENCE OF **SIGNIFICANT** HARM, BUT STILL SERIOUS ENOUGH TO WARRANT A PENALTY
- PENALTY NOT TO EXCEED \$54,000
- NO EVIDENCE OF NON-ALLOWABLE DISCHARGE

THE ESA

- THE PENALTY ORDER
- THE VIOLATION/ PENALTY WORKSHEET
- SIGN CERTIFYING SITE IS IN COMPLIANCE
- 30 DAYS TO ACCEPT/DECLINE OR CALL

ADMINISTRATIVE COMPLIANCE ORDER OR ACO ON CONSENT

- COMMON TERMS OF AN ORDER: W/IN DESIGNATED AMOUNT OF TIME :
 - MAKE CORRECTIVE ACTIONS TO CORRECT DEFICIENCIES, ELIMINATE AND PREVENT RECURRENCE OF SITED VIOLATIONS,
 - TO COME INTO COMPLIANCE WITH THE PERMIT
 - SUBMIT A PLAN FOR COMPLIANCE
 - SUBMIT DOCUMENTATION VERIFYING COMPLETION; PHOTOS, INSPECTIONS REPORTS, UPDATED SWPPP.

I THINK YOU ARE MISTAKEN!

- DURING THE PROCESS OF FINALIZING AND SIGNING THE ORDER THE RESPONDENT HAS AN OPPORTUNITY TO OFFER ADDITIONAL OR CORRECT INFORMATION:
 - PICTURES
 - MEASURES ALREADY TAKEN TO CORRECT DEFICIENCIES
 - DOCUMENTATION OF ADDITIONAL INSPECTIONS
 - UPDATED SWPPP

TRADITIONAL CLASS I AND II ADMINISTRATIVE PENALTIES

- FOCUS ON MORE SERIOUS CASES OF NONCOMPLIANCE,
- MAX ADMINISTRATIVE PENALTY AUTHORITY = \$22,320 PER DAY FOR EACH DAY OF VIOLATION NOT TO EXCEED \$278,995 PER 33 USC 1319(G)(2)(B)

CIVIL JUDICIAL CASES

- SIGNIFICANT CASES
- USUALLY EXCEED OUR ADMINISTRATIVE PENALTY AUTHORITY

HOW TO AVOID PROBLEMS

- FOLLOW YOUR PERMIT REQUIREMENTS
- IMPLEMENT AND MAINTAIN BMPS
- KEEP GOOD RECORDS
- DOCUMENT CORRECTIVE ACTIONS AND
- INSPECT, INSPECT, INSPECT

RESOURCE'S

- FY18-22 EPA STRATEGIC PLAN
 - [HTTPS://WWW.EPA.GOV/SITES/PRODUCTION/FILES/2019-09/DOCUMENTS/FY-2018-2022-EPA-STRATEGIC-PLAN.PDF](https://www.epa.gov/sites/production/files/2019-09/documents/fy-2018-2022-epa-strategic-plan.pdf)
- [WWW.EPA.GOV/NPDES/STORMWATER](http://www.epa.gov/npdes/stormwater)
- [WWW.EPA.GOV/REGION7](http://www.epa.gov/region7)
- STORMWATER 101 BASICS: EPA SLIDES
- [PHOTOS: HTTPS://WWW.MOBILEBAYKEEPER.ORG/CONSTRUCTION-STORMWATER](https://www.mobilebaykeeper.org/construction-stormwater)

REGIONAL EPA STORM WATER CONTACTS

- ANGELA ACORD, CONSTRUCTION, ECAD-WB, 913-551-7914
- CYNTHIA SANS, INDUSTRIAL AND MS4, ECAD-WB, 913-551-7492