



Revisions to the Construction and Development Effluent Guidelines; Final Rule

Summary

Through this rule, EPA is finalizing changes to a 2009 Final Rule (40 CFR 450) addressing stormwater discharges from the Construction and Development (C&D) point source category. This 2014 rule provides clarifications on applicability of several requirements of the 2009 rule. These revisions will also provide needed flexibilities for permitting authorities to implement some of the rule requirements and for permittees to comply with the rule. Compliance with this regulation will result in significant reductions in the discharge of sediment and other associated pollutants to surface waters and improve the quality of the nation's waters. This rule also furthers the EPA's goals of improving resiliency of the nation's waters and infrastructure to climate change by requiring permittees to provide and maintain buffers around many surface waters at construction sites and reducing downstream siltation and flooding.

Background

EPA promulgated Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category on December 1, 2009 (74 FR 62995). The rule required owners and operators of permitted construction activities to adopt the following requirements:

- implement erosion and sediment controls;
- stabilize soils;
- manage dewatering activities;
- implement pollution prevention measures;
- provide and maintain buffers around surface waters;
- prohibit certain discharges; and
- utilize surface outlets for discharges from basins and impoundments.

The 2009 final rule also established a numeric limitation on the allowable level of turbidity in discharges from certain construction sites.

Following promulgation of the 2009 C&D rule, several parties filed petitions for review of the final rule, identifying potential deficiencies with the dataset that the EPA used to support its decision to adopt the numeric turbidity limitation as well as other issues. On December 10, 2012, EPA entered into a settlement agreement with petitioners to resolve the litigation. This 2014 final rulemaking satisfies the EPA's agreements under this litigation.

Revisions to the Existing Rule Finalized Today

EPA is making the following changes to the 2009 rule with this 2014 rule:

- (1) Addition of a definition of "infeasible."

EPA is making this change because several of the rule requirements allow exceptions in cases where a particular practice is infeasible. Addition of a definition of infeasible will clarify for the regulated community and to permitting authorities when it is appropriate to apply these exceptions.

- (2) Revisions to several of the non-numeric requirements.

EPA is making several changes to the non-numeric requirements of the rule in order to provide clarity and allow additional flexibilities for permittees. These include clarifying the applicability of requirements to control erosion caused by discharges, providing additional details on areas where buffers are required and clarifying requirements for soil stabilization, preservation of topsoil and pollution prevention measures.

- (3) Withdrawing the numeric turbidity effluent limitation and monitoring requirements.

EPA had previously stayed the numeric turbidity limitation and monitoring requirements due to problems with the data used to develop these limitations. EPA is withdrawing these requirements in this 2014 final rule.

For More Information

For additional information, please consult EPA's C&D webpage:

<http://water.epa.gov/scitech/wastetech/guide/construction/index.cfm>

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