Looking Ahead at Stormwater Policy

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Outline

- Stormwater National News
- Region 4 MS4 Backlog Strategy
- National Green Infrastructure Agenda
- Community Emphasis
Stormwater National News
Status of Proposed Rulemaking

- EPA has officially withdrawn its attempts at a stormwater rulemaking
- EPA has decided to focus on providing incentives, technical assistance, and tools to communities to encourage them to implement strong stormwater programs
- EPA will work with communities to address stormwater challenges, and continue to evaluate whether additional regulatory action is needed to better address stormwater and protect water quality
Identifying Who Needs to Take Action

- Currently unregulated MS4s
- Regulated MS4s
- Entities that discharge to MS4s and discharge directly to *Waters of the United States*
Four Critical Action Areas

1. Federal Partnerships
2. Education, Technical Assistance and Engagement with Key Partners
3. Recognition/Incentive Programs
4. Strengthen the MS4 Program
Four Critical Action Areas (contd)

- **Federal Partnerships**
  - Goal: Leverage more federal funding and redirection of policies for green infrastructure to reduce stormwater pollution by increasing the focus on green infrastructure in federal programs

- **Education, Technical Assistance and Engagement with Key Partners**
  - Goal: Educate targeted audiences about benefits of a retention standard and green infrastructure, and engage strategic partners to advance adoption of green infrastructure

- **Recognition/Incentive Programs**
  - Goal: Explore options for a recognition/incentive-based program to encourage communities to incorporate green best management practices

- **Strengthen the MS4 Program**
  - Goal: Better protect waterbodies from MS4 discharges
Areas of Emphasis

- Evaluating Program Challenges
  - Permit backlog
  - Establishing effective and enforceable (i.e., clear, objective, specific, and measurable) permit requirements

- Cataloging example approaches
  - Addressing TMDLs in permits
  - Post-construction discharge standards
Evaluating Program Effectiveness

**EPA Follow-Up**

- Reviewing MS4 permits to determine how they currently address impaired waters and the six minimum measures

- Work with specific states and Regions to provide consistent advice on draft permits
  - Direct assistance through reviews of state permits

- Continue evaluation of concerns that are driving permit challenges

- Develop resources for permitting authorities, such as clearinghouse of example permit provisions
Evaluating Program Effectiveness

Effective/Enforceable Requirements

- MS4s are the focus of OECA’s National Enforcement Initiative
  - Goal to address all Phase I MS4 permits by 2016

- Findings show that 30% of Phase I permits contain problematic language that is vague, weak, or outdated
  - Examples:
    - Lack of clear measurable goals, specific performance standards (e.g., frequency of inspections) and deadlines
    - Permit does not advance the existing program, permit reads as if it’s the first permit term

- Regional Enforcement Offices have opted to defer further assessment of some MS4 Phase I permits until the problematic language is resolved or improved
Region 4 MS4 Backlog Strategy
Region 4 Backlog Strategy

- The Region does not have as many expired permits as other areas of the country.

- A certain percentage of expired permits is normal to the process; however, for what remains:
  1. Condition State 106 Grants
  2. Conduct workshops in targeted areas
  3. Assist in SWMP development in selected communities
  4. Write permits
Looking Ahead: Region 4 MS4 Program

- Greater emphasis on Stormwater Management Plans (SWMPs)
  - Tie back to watershed work
    - More review of SWMPs in priority areas
  - For more focused TMDL implementation
    - SWMPs should continually be revised and refined as more data and information is collected
    - Schedule and plan for measuring the effectiveness of control measures in addressing the WLA
GI Strategic Agenda
EPA Green Infrastructure Policy

- Builds upon the previous 2008 and 2011 versions
- Through this strategy, EPA aims to increase national and local capacity to evaluate the role of green infrastructure and the benefits that green infrastructure can provide.
- The objectives of the strategy are organized within five major focus areas:
  - 1. Federal coordination;
  - 2. Clean Water Act regulatory support;
  - 3. Research and information exchange;
  - 4. Funding and financing; and
  - 5. Capacity building.
GI Strategy: Federal Coordination

- Leverage existing federal partnerships.
- Continue federal dialogue on critical barriers and knowledge gaps.
- Demonstrate commitment to green infrastructure through federal projects.
- Develop information on large-scale green infrastructure systems as a component of community resiliency and disaster relief.
- Continue to integrate source water protection into stormwater management strategies.
GI Strategy: CWA Regulatory Support

- Bolster efforts to incorporate green infrastructure into municipal separate storm sewer system (MS4) programs.
- Propose changes to the national stormwater program to facilitate the use of green infrastructure in new development and redevelopment projects.
- Continue to ensure all water enforcement actions consider the use of green infrastructure.
- Continue to work with stakeholders and municipalities to implement the integrated planning framework.
GI Strategy: Research & Info. Exchange

- Conduct research on planning and evaluating green infrastructure systems.

- Widely share emerging information on green infrastructure performance, implementation, and maintenance.
GI Strategy: Funding & Financing

- Leverage Clean Water Act State Revolving Fund (CWSRF) to finance green infrastructure projects for stormwater management.

- Identify opportunities to reduce the cost of implementing green infrastructure.

- Promote stormwater utilities as a sustainable funding source.
GI Strategy: Partnerships & Capacity Building

- Support mentorships and peer-to-peer exchange among community partners.
- Provide targeted technical support where appropriate, highlighting green infrastructure’s role in revitalizing underserved communities.
- Collaborate with external partners to design and implement local green infrastructure projects.
- Increase awareness and understanding of green infrastructure among emerging engineering and design professionals.
- Provide outreach support targeted at small-scale green infrastructure applications and homeowners.
- Develop and support fit-for-use integrated water management approaches.
Communities
Looking Ahead: Region 4 MS4 Program

- Use of the MS4 program to help solve environmental problems in local areas
- Focused use of Green Infrastructure
  - Address localized flooding issues
  - Alleviate sewer overflows
  - Withstand more intense weather events
  - Recharge groundwater
President’s Urban Agenda

- Urban Waters Showcase Communities
- Urban Waters Technical Assistance Grants
- GI Technical Assistance
- R4 Reorganization to Support Communities
Thank you!

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Waters of the United States
Waters of the United States: Proposed Rulemaking

- Proposed in the Federal Register April 21, 2014 – period to close July 21, 2014
- EPA and the U.S. Army Corps of Engineers jointly proposed a rule defining the scope of waters protected under the CWA
- Proposed rule would revise the existing administrative definition of “waters of the United States” consistent with legal rulings and science concerning:
  - interconnectedness of tributaries, wetlands, and other waters and
  - effects of these connections on the chemical, physical, and biological integrity of downstream waters
Waters of the United States: Proposed Rulemaking (contd.)

- Proposed changes would increase the asserted scope of CWA jurisdiction as a result of expressly declaring some types of waters categorically jurisdictional (waters adjacent to a jurisdictional water).
- Also applies new definitions that give larger regulatory context to some types of waters, such as tributaries.
- The agencies believe that the proposal does not exceed the CWA’s coverage or protect new types and does not enlarge jurisdiction beyond what is consistent with the Supreme Court’s narrow reading of jurisdiction.