



MEMORANDUM

TO: State Water Division Directors
EPA Regional Water Division Directors

FROM: Charles Sutfin, Director,
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U.S. E.P.A.

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SUBJECT: Policy Clarification on Overlap of 6217 Coastal Nonpoint Programs with Phase I and II Storm Water Regulations

This memorandum is intended to clarify which activities no longer are subject to requirements of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) Section 6217 Coastal Nonpoint Pollution Control Program due to their coverage in the National Pollution Discharge Elimination System (NPDES) storm water permit program (Phase I and II).

Phase II of the NPDES storm water program expands coverage of permitted activities to include construction activities between one and five acres, as well as municipal separate storm sewer systems (MS4) in urbanized areas that serve between 50,000 and 100,000 people (and in some cases, localities with fewer than 50,000 people). The original NPDES Phase I storm water rule published in 1990 continues to apply to construction activities greater than five acres, as well as to MS4s in urbanized areas that serve more than 100,000 people. EPA and NOAA have identified that the following ten management measures specified in the 6217(g) guidance overlap in part or in full with the expanded NPDES storm water regulations.

- New Development (geographically limited)
- Construction Site Erosion and Sediment Control
- Construction Site Chemical Control
- Existing Development (geographically limited)
- Road, Highway and Bridge Construction Projects
- Road, Highway and Bridge Construction Site Chemical Control
- Road, Highway and Bridge Operation and Maintenance (geographically limited)
- Road, Highway and Bridge Runoff Systems (geographically limited)
- Hydromodification, Erosion and Sediment Control for Dams
- Hydromodification, Chemical and Pollutant Control for Dams

As stated in the 1993 Management Measures Guidance (page 4-4), “ Any storm water runoff that ultimately is regulated under an NPDES permit will no longer be subject to” the guidance and is not required to be addressed in a state’s/territory’s coastal nonpoint control program. The following discussion addresses the effect of the expanded storm water permit program on each of these ten management measures.

New Development

State coastal nonpoint control programs are no longer required to include the New Development Management Measure for any new development, redevelopment, and new and relocated roads, highways, and bridges occurring in urbanized areas subject to Phase I or Phase II MS4 permits. Management measures in conformance with the 6217(g) guidance are still required for any new developments occurring outside of these permitted urbanized areas.

Construction Site Erosion and Sediment Control

State coastal nonpoint control programs are no longer required to include the Construction Site Erosion and Sediment Control Management Measure because the NPDES storm water regulations for industrial activities on construction sites apply nationwide and therefore throughout the coastal management areas of states and territories.

Construction Site Chemical Control

State coastal nonpoint control programs are no longer required to include the Construction Site Chemical Control Management Measure because the NPDES storm water regulations for industrial activities on construction sites apply nationwide and therefore throughout the coastal management areas of states and territories.

Existing Development

State coastal nonpoint control programs are no longer required to include the Existing Development Management Measure for any existing development within urbanized areas subject to Phase I or Phase II MS4 permits. Management measures in conformance with the 6217(g) guidance are still required for any existing developments outside of these permitted urbanized areas.

Road, Highway and Bridge Construction Projects

State coastal nonpoint control programs are no longer required to include the Road, Highway and Bridge Construction Projects Management Measure because the NPDES storm water regulations for industrial activities on construction sites apply nationwide and therefore throughout the coastal management areas of states and territories.

Road, Highway and Bridge Construction Site Chemical Control

State coastal nonpoint control programs are no longer required to include the Road, Highway and Bridge Construction Site Chemical Control Management Measure because the NPDES

storm water regulations for industrial activities on construction sites apply nationwide and therefore throughout the coastal management areas of states and territories.

Road, Highway and Bridge Operation and Maintenance

State coastal nonpoint control programs are no longer required to include the Road, Highway, and Bridge Operation and Maintenance Management Measure for any road, highway and bridge operation and maintenance in urbanized areas subject to Phase I or Phase II MS4 permits. Management measures in conformance with the 6217(g) guidance will still be required for any operation and maintenance of roads, highways and bridges occurring outside of these permitted urbanized areas.

Road, Highway and Bridge Runoff Systems

State coastal nonpoint control programs are no longer required to include the Road, Highway and Bridge Runoff System Management Measure for any road, highway and bridge runoff systems in urbanized areas subject to Phase I or Phase II MS4 permits. Management measures in conformance with the 6217(g) guidance will still be required for runoff systems associated with roads, highways and bridges outside of these permitted urbanized areas.

Hydromodification, Erosion and Sediment Control for Dams

State coastal nonpoint control programs are no longer required to include the Hydromodification, Erosion and Sediment Control for Dams Management Measure because the NPDES storm water regulations for industrial activities on construction sites apply nationwide and therefore throughout the coastal management areas of states and territories.

Hydromodification, Chemical and Pollutant Control for Dams

State coastal nonpoint control programs are no longer required to include the Hydromodification, Chemical and Pollutant Control for Dams Management Measure because the NPDES storm water regulations for industrial activities on construction sites apply nationwide and therefore throughout the coastal management areas of states and territories.

Monitoring and Tracking

EPA and NOAA will not require monitoring or tracking of any management measures to the extent that they are covered by the Phase I or Phase II storm water regulations and excluded from the CZARA program as described above.

Exclusion Policy

Some coastal states and territories have also asked EPA and NOAA whether they need to implement the New Development and Existing Development Management Measures if the majority or the most significant portion of the coastal management area is covered under the

NPDES municipal storm water regulations. These two management measures still must be implemented in the remaining areas not covered by NPDES municipal storm water regulations. However, consistent with the Program Development and Approval Guidance (January 1993), EPA and NOAA will consider excluding the state from requirements to implement these management measures if the state can provide a rationale and analysis that these areas do not, and are not anticipated to, adversely impact coastal water quality or aquatic habitat. These determinations will be made on a case-by-case basis. Key factors to be considered in such cases include the current extent of development; the anticipated rate, pattern, and location of future development; and any information on current impacts, of development on coastal water quality and aquatic health.

Other Urban Runoff Measures

Finally, EPA and NOAA clarify that state programs must include all other management measures and apply them throughout the coastal management area, except as stipulated in this memorandum and other state-specific exclusions. The other urban runoff measures that states must implement are: Watershed Protection; Site Development; New and Operating Onsite Disposal Systems; Pollution Prevention; Planning, Siting, and Developing Roads and Highways; and Bridges. These programs continue to apply because the NPDES Phase I and Phase II municipal storm water regulations generally do not address these activities. Likewise, all hydromodification management measures beyond the two listed above continue to apply.

If you have any questions regarding the above, your staff may contact Don Waye at EPA via phone at (202) 566-1170 or email at waye.don@epa.gov or John Kuriawa at NOAA via phone at (301) 563-7202 or email at john.kuriawa@noaa.gov.

CC: State Coastal Nonpoint Program Coordinators