



# County of Greenville

"... At Your Service"

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Dear Engineers and Developers:

## Overview

On March 2, 2009, I put Greenville County's comments on EPA's proposed regulation on our announcement page. On Tuesday, December 1, 2009, EPA published 40 CFR Part 450 of the Federal Register as a final rule for Effluent Limitations on Construction Discharges Point Source Category. These final regulations establish technology-based Effluent Limitations Guidelines and New Source Performance Standards for the Construction and Development (C&D) point source category. Construction related discharges typically permitted by the Construction General Permit (SCR 1000000) are part of this category and subject to these rules. This rule goes into effect in two stages: no later than 20 months from Tuesday December 1, 2009, sites disturbing 20 acres and more must come into compliance; and, 50 months from Tuesday December 1, 2009, sites disturbing 10 acres and greater must come into compliance. Most likely, this will be implemented as part of the renewal of Greenville County's MS4 permit.

## Requirements for Implementation

This rule sets a standard for turbidity of 280 NTU as a Maximum Daily Value for storm events up to the 2-year 24-hour event. The value of 280 NTU is probably low for the midlands and upper part of the state of South Carolina. The language is as follows:

- (a) *Beginning no later than August 2, 2011 during construction activity that disturbs 20 or more acres of land at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale; and no later than.....*

*Note: federal Register published a date of August 2, 2010, however, the correct date is August 2, 2011 as per mail from Jesse Pritts, December 2, 2009.*

This means you may have disturbance not physically connected to one another or draining to the same receiving water which combine to disturb 20 acres or more but any one site may be less than 20 acres, and you will be required to discharge no more than a maximum daily average of 280 NTU from these sites in a storm up to a 2-year 24-hour event.

In general, sampling is also required at all discharge points. In most cases either an active treatment system (ATS) or a passive treatment system (PTS) will be required to meet this 280 NTU limit. Sampling will be an integral part of design of a treatment system for the discharge to reduce the NTU measurements, information will be required prior to treatment and after treatment. If flocculation is used the dosages may be site specific regardless of the sampling point locations. Also, just because you may meet the during construction trapping efficiency of 80% required by South Carolina Regulation 72-300 does not mean you will achieve the 280 NTU requirement. In fact in the upstate you probably will not without a designed PTS or ATS in place.

### **Required Monitoring**

EPA is requiring monitoring of discharges from construction sites for compliance. They have left many of the details to SCDHEC to work out. EPA indicates that they will provide guidance for monitoring construction site discharges to state permit writers prior to issuance of the next EPA Construction General Permit. One thing to note is that once an area has been stabilized there is no longer a requirement to monitor the discharge. Monitoring/compliance points may move with the construction stabilization. This also should encourage contractors to stabilize parts of the project as soon as they are ready. The key component here is that the requirement for the 280 NTU discharge is tied to the total disturbed area at any one time and not the total disturbed area of the project.

The daily maximum limitation allows for sample averaging such that the average daily discharge cannot exceed 280 NTU. Therefore, levels of turbidity higher than the standard can be discharged during the day as long as the daily average is less than the standard. When SCDHEC takes a sample it is averaged with samples taken by the permittee for that day to determine compliance. If the permittee did not take a sample that day SCDHEC's samples would be used for determining compliance.

EPA has left the sampling frequency to the discretion of SCDHEC. EPA indicates that they do discourage allowing the number of samples to vary arbitrarily. Most likely, SCDHEC will develop a required interval, type and frequency for sampling of construction sites. This can be different for linear projects versus other project types. It is not at all clear whether or not more than one sample in a day will be required.

As I mentioned previously the methods for testing envisioned by EPA is to use a portable field turbidity meter. However, EPA has left this up to SCDHEC to specify the methodology. Other options include automated samplers. EPA has also left the reporting requirements up to SCDHEC for how this data is reported. It is anticipated that SCDHEC will ask that it be included on the inspection reports currently being required. It is not at all clear whether or not more than one sample in a day is required.

These standards, if no appeal is filed by March 30, 2010, in its current form will be passed through SCDHEC down to Greenville County through our MS4 Permit and the CGP renewal to enforce and we will have no other option but to do so. As local leaders in the development community, we wanted you to be aware of these far reaching regulations that will affect each of you here in Greenville.

We have provided a link to the federal register and a position paper prepared by the National Association of Home Builders, which outlines some of these concerns seen with this proposed regulation.

Greenville County has been watching this develop over the past few years. We have positioned ourselves to provide the development community with the tools to comply with this rule. We are presently working to determine how EPA and SCDHEC will implement this rule such that we can provide you with a design tool (SEDPRO), to determine assist you in design of a PTS or ATS. We will continue to keep you informed as developments take place. I have included a timeline below.

<b>Action</b>	<b>Date</b>
Rule Published	December 1, 2009
Rule effective date	February 1, 2010
20 Ac. Disturbed Compliance	August 2, 2010*
SCR100000 Renewal	September 1, 2011
10 Ac. Disturbed Compliance	February 2, 2014
EPA Const. General Permit Renewal	June 30, 2011
EPA monitoring Guidance Developed	Before June 30, 2011

\* Date as given in the December 1, 2009 Federal Register. It should be August 2, 2011 based on the written language of 18 months from the published date. Correct as per email from Jesse Pritts, December 2, 2009.