Construction Stormwater
U.S. EPA

Connor Adams
CWA Inspector
Overview

- Construction Stormwater Permits
- EPA Inspections
- Enforcement
General Regulatory Breakdown

- Construction oversight
  - >1 acre
  - Municipal Separate Storm Sewer System Permit (if applicable)
  - HDOH
  - U.S. EPA

City and County of Honolulu July 2018 | Construction Stormwater Quality Workshops
Why are EPA & DOH Concerned about Runoff from Construction Sites?

- Pollutants of Concern
  - Primarily: sediment and turbidity (as Total Suspended Solids)
  - Other potential pollutants include: phosphorus, nitrogen, petroleum products, construction chemicals, and solid wastes
Please log into the following website:

Insert KAHOOT.IT

Insert survey number
Thoughts on Total Suspended Solids?

A) TSS is sand. The beach is sand. EPA shouldn’t have a construction stormwater program!

B) TSS can have an extremely significant impact on marine life, including coral. It is vital that we minimize the mobilization and discharge of sediment into our lakes, rivers, streams and oceans.

C) This is the 4\textsuperscript{th} slide and I am already sleeping?

D) Managing stormwater from construction sites keeps me employed so whatever Connor says is important.
Overview

- Construction Stormwater Permits
- EPA Inspections
- Enforcement
Construction General Permit (CGP)

- New EPA construction general permit finalized in January 2017, effective February 16, 2017

- Mostly minor revisions, but:
  - Permit does include new BMP requirements to reduce PCBs in runoff from demolition of buildings built before 1980 – only applies to PCB impaired waterbodies
  - Notice of coverage at the construction site must include EPA phone number so public can report polluted runoff at a site.

- May be of interest for Hawaii’s next construction permit.
Pending Permit Petitions

After the issuance of the 2017 CGP, EPA was petitioned by both the National Association of Homebuilders (NAHB) and the Chesapeake Bay Foundation.
Construction Permit Trends

- Clear, measurable and enforceable permit requirements
- Green infrastructure requirements
- Additional (more intelligent) monitoring requirements
Overview

- Construction Stormwater Permits
- EPA Inspections
- Enforcement
Please log into the following website:

Insert KAHOOT.IT

Insert survey number
POLL: Have You Participated in a Construction Stormwater Inspection?

A) Yes, I have participated in a US EPA led inspection
B) Yes, I have participated in a HDOH led inspection
C) Yes, I have participated in a CCH led inspection
D) All of the above
E) None of the above
Goal of an Inspection

Identify potential non-compliance to aid in bringing discharger back into compliance
Inspections are performed to:

- Determine compliance status with regulations, permit conditions, and other program requirements

- Verify the accuracy of information submitted by permittees

- Verify the adequacy of sampling and monitoring conducted by the permittee
The EPA Inspection Process

- **Pre-inspection information gathering**
  - State/Local referral or workshare
  - Tips and Complaints
  - Independent research

- **Inspection**
  - On-site inspection

- **Post-inspection follow-up**
  - Inspection report
  - Compliance
  - Enforcement options
What to Expect During a U.S. EPA Inspection

- Unannounced site visit
- Opening conference
- Site walk-through
- Closing conference
What to Expect During a U.S. EPA Inspection

- Unannounced site visit
- Opening conference
- Site walk-through
- Closing conference
Unannounced Inspection

- Observe site conditions during normal operation

- EPA realizes that unannounced inspections can be inconvenient and the inspector will generally try and accommodate the needs of the operator
What to Expect During a U.S. EPA Inspection

- Unannounced site visit
- Opening conference
- Site walk-through
- Closing conference
Opening Conference

- The inspector will explain the purpose of the inspection.
- The inspector will ask questions from the facility representative about the project.
- The inspector will request permit-related documents.
- Identification of health and safety concerns.

WHY DON'T YOU HAVE A SEAT
Records Review

- Storm Water Pollution Prevention Plan (SWPPP)
  - Does SWPPP contain required elements of the permit?
    - Identify and assess potential pollution sources
    - Site Map

- Are inspection, monitoring, and training records available and complete?
What to Expect During a U.S. EPA Inspection

- Unannounced site visit
- Opening conference
- Site walk-through
- Closing conference
Site Walk-Through — Implementation of SWPPP

Facility shall implement and maintain seven minimum BMPs:

1. Good Housekeeping
2. Preventative Maintenance
3. Spill and Leak Prevention and Response
4. Material Handling and Waste Management
5. Erosion and Sediment Controls
6. Quality Assurance and Record Keeping
7. Employee Training Program
Poor BMP Implementation
Soil Stabilization

VS
Concrete Washout Areas
Waste Disposal Areas

VS
Track-Out Controls
What to Expect During a U.S. EPA Inspection

- Unannounced site visit
- Opening conference
- Site walk-through
- Closing conference
Closing Conference

- The inspector will recap the inspection and describe potential areas of concern.

- The inspector may request follow-up documentation.
After the Inspection

- EPA usually finalizes the inspection report within 60 days of the inspection.

- EPA will issue the report and typically ask for a response within 30 days.

- EPA’s management will make the decision about whether or not to follow-up with a formal enforcement action.
Overview

- Construction Stormwater Permits
- EPA Inspections
- Enforcement
Follow-up Enforcement
Why Does EPA Enforce?

- Deterrence (penalty)
- Level Playing Field (economic benefit)
- Remedy the Harm (achieve compliance)
When Does EPA Enforce?

- Severity and duration of non-compliance
- Risk to public health and environment
- Past non-compliance
Enforcement Tools- Administrative Orders

- Administrative Orders -- (CWA 309(a))
  - Unilateral Order
  - Order on Consent

- Penalty Order (Addresses harm and economic benefit) (CWA 309(g))
  - EPA penalty policy

- EPA manages cases ourselves
Enforcement Tools- Civil Judicial

- Generally, DOJ is involved with larger, more complex cases
  - Single facility where duration and nature of violations is large
  - Multiple facilities across different states
  - Penalty amounts exceed statutory limit for Administrative action

- DOJ represents the Agency in the case
  - Additional HQ involvement as well and additional regions, where needed

- Citizen Suit provision (CWA §505)
Resources

- EPA’s national stormwater website:
  http://www.epa.gov/npdes/npdes-stormwater-program

- EPA Region 9’s stormwater website:
  http://www.epa.gov/region9/water/npdes/stormwater.html

Connor Adams
U.S. EPA

adams.connor@epa.gov
(415) 947-4109