Topics

- Storm Water Enforcement
- Regional Water Board Approach
- Permit/BMP Implementation
Our chief goal is compliance, not enforcement. But we have found that without a strong enforcement program, you cannot reasonably expect compliance.
Regional Board Enforcement

- Progressive Enforcement Tools
  - Informal Enforcement
  - Formal Enforcement

- Statewide Enforcement Policy
Informal Enforcement

- Verbal Warning
- Staff Enforcement Letter
- Notice of Violation (NOV)
Formal Enforcement

- Administrative Civil Liability (ACL)
- Notice of Non-Compliance (NNC)
- Mandatory Minimum Penalty (MMP)

More Options
- Notice to Comply
- Cleanup and Abatement Order
- Cease and Desist Order
- Referral to Attorney General/US Attorney/District Attorney
- Coordinated enforcement with Fish and Game, U.S. EPA, Army Corps of Engineers, and other agencies
Administrative Civil Liability
(Water Code 13385)

- **Maximum Penalties**
  - $10,000 per day per violation
  - $10/gallon (after 1st 1,000 gallons) of discharge

- **Additional Requirements**
  - Consideration of five Water Code factors
  - At a minimum must cover economic savings
  - Recovery of staff costs
Mandatory Minimum Penalty
(Water Code 13399)

- Applies to individual NPDES permits and storm water general permits
- For storm water:
  - Failure to File a Notice of Intent
  - Failure to Submit an Annual Report
  - Risk Level 3 sites with 4 Numeric Effluent Limit violations in 6 months
Mandatory Minimum Penalty

- Failure to apply for coverage under the storm water General Permits
  - Mandatory Minimum Penalty - $5,000

- Failure to submit an annual report or certification under a storm water General Permit
  - Mandatory Minimum Penalty - $1,000

- Four Numeric Effluent Limit violations in a 6-month period at Risk Level 3 site
  - Mandatory Minimum Penalty - $3,000
Don’t Panic!
Central Valley Water Board Approach
(99-08-DWQ and 2009-0009-DWQ)

- Training
- Implementation
- Inspections/Evaluation
- Compliance/Enforcement
Implementation Of Order No. 2009-0009-DWQ
Grandfathered Sites
(Projects enrolled under 99-08-DWQ)

- Permit Required Documents (PRDs) must be submitted by July 1, 2010
- All sites Risk Level 1
- SWPPP must comply with Risk Level 1 requirements
- Risk Level determination requirements
Risk Determination Requirements

- Regional Water Boards can require dischargers to comply with risk determination requirements
- Projects with a prior history of noncompliance or located within a Risk Level 3 watershed will be considered
- Sites receiving NOVs after July 1, 2010 may be required to comply with risk determination requirements
QSD/QSP
(Qualified SWPPP Developer/Practitioner)

- The timing on meeting the training requirements may be tight
- Until training is available our focus will be on the quality and implementation of the PRDs
BMP Implementation
2009-0009-DWQ

Regional Water Board staff expectations:

- Same expectations as under 99-08
- All inactive areas have effective soil cover
- REAPs (Risk Level 2 and 3 sites)
- Weekly inspection checklists
- Pre- and post- rain event reports
- Extended rain event checklists
- Quarterly non-storm water monitoring reports
Specific BMP Requirements

BMP Categories:

- Material Management
- Waste Management
- Vehicle Storage and Maintenance
- Landscape Material Management
- Non-Storm Water Management
- Run-on and Runoff Control
- Erosion Control
- Sediment Control
Material Management

Cover and berm stockpiled construction material when not in use (soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.)

Store chemicals in watertight containers or in a completely enclosed structure
Waste Management

Prevent discharge from waste disposal containers to storm drains or receiving waters.

Cover waste containers at the end of every business day and during rain events.
Waste Management

Contain and protect waste material from wind and rain at all times

Prevent disposal of rinse/wash water or materials to:
impervious or pervious surfaces or storm drains
Contain concrete washouts *(any washout areas)* so there is no discharge to the underlying soil *or* the surrounding areas.
Waste Management

Contain “sanitation facilities” to prevent discharge to storm drains or receiving waters.
SWPPP must contain a spill response element that requires:

- Spill cleanup equipment and materials are located onsite
- Spills and leaks are immediately cleaned up, and disposed of properly
- Spill response personnel are assigned and trained
Vehicle Storage and Maintenance

- Prevent oil, grease, or fuel from leaking into the ground, storm drains or surface waters.
- All equipment or vehicles being fueled, maintained, or stored must be in a designated area with appropriate BMPs.

Landscape Material Management

- Contain all landscape materials and fertilizers not actively in use.
- No application of erodible landscape material two days prior to predicted rain events, or while raining.
- Stack erodible landscape material on pallets, and cover when not being used.
Non-Storm Water Management

Prevent non-storm water discharges from street cleaning and vehicle washing activities to surface waters and storm drains.

Run-on and Runoff Control

Manage all:
- Run-on,
- Runoff within the site,
- Runoff that discharges off the site.
- Direct run-on from off site away from all disturbed areas (or comply with effluent limitations)
Erosion Control

- Soil cover required for inactive areas, finished slopes, open space, utility backfill, and completed lots
- Limit use of plastic materials if more sustainable, environmentally friendly alternatives exist. If use of plastic material is necessary, materials resistant to solar degradation must be considered

Sediment Control

- Perimeter controls must be implemented and maintained
- All construction entrances and exits must be stabilized
- Sediment basins must be designed, at a minimum, in accordance with the CASQA Construction BMP Handbook
Bottom Line:

While many conditions in the permit remain the same, failure to comply with the new requirements may result in increased enforcement especially at Risk Level 2 and 3 sites.

Regional and State Water Board staff are available to answer questions and assist you in bringing your site into compliance.
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NOW you can Panic!