

Storm Water/Clean Water Act: U.S. Environmental Protection Agency Oversight Inspections (Virginia)

Arkansas Environmental, Energy, and Water Law Blog



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The publication *Field Notes* published by Wetland Studies and Solutions, Inc. ("WSS") has an article in its September 7th edition describing several United States Environmental Protection Agency ("EPA") Clean Water Act storm water permit oversight inspections in the State of Virginia.

WSS is a natural resources consulting firm based in Northern Virginia.

States that have been delegated the ability to implement and enforce Clean Water Act National Pollution Discharge Elimination System permitting requirements generally have primary authority to undertake these activities. I am assuming Virginia has been delegated such Clean Water Act authority. However, EPA generally retains the authority to undertake enforcement action in a given state despite such delegation. Therefore, EPA sometimes undertakes oversight activities in delegated states.

EPA oversight activities (inspections/enforcement) periodically occur in Arkansas despite its receipt of delegation of various environmental media programs.

The September *Field Notes* article provides an opportunity to identify (at least in this instance) what were considered key potential violations/areas of interest to EPA (at least in this EPA Region) in regards to Clean Water Act Storm Water permit compliance.

The *Field Notes* article states the focus of the EPA inspections was Storm Water Pollution Plan Prevention ("SWPPP") compliance, permit postings, and overall site condition compliance.

The article notes in response to the question "What were the biggest issues?",

The inspectors were most concerned with continuity between the plans and current site conditions, specifically modifications (redlines) reflecting field changes to erosion and sediment control and storm water management BMPs.

The article also notes that in reviewing the Storm Water Pollution Prevention Plans, the EPA inspectors considered these questions:

- Was the Pollution Prevention (P2) plan included and complete?
- Was the Record of Land Disturbance accurate and kept up-to-date?
- Were inspections thorough, complete, and representative of on-site conditions?
- Were site plans updated to reflect current site conditions?

Deficiencies noted in the field were stated to have been primarily related to P2 issues listed as:

- Inadequate concrete washout liners;

- Hazardous and toxic chemicals (gas, hydraulic fluid, oils, epoxy, etc.) left in unprotected areas of the site
- Dried concrete piles sitting around foundation walls;
- Paint cans discarded in dumpsters instead of proper receptacles;
- Masonry components left out uncovered; and
- Evidence of minor fuel spills on the ground at fueling stations.

EPA is stated to have followed a procedure for an out-of-compliance site which involved sending an interim report to the permittee contractor/developer. The permittees were provided an opportunity for comments and documentation of corrective actions taken. These actions were stated to have been incorporated in the official EPA report completed four to six months later.