

# STORMWATER AND THE CONSTRUCTION COMMUNITY



*THE MS4 PHASE II PROGRAM IN FLOYD  
COUNTY, INDIANA*

# An Overview of Requirements for Rule 13 and Rule 5

# Key Terms

- *NPDES* – National Pollutant Discharge Elimination System
- *NOI* – Notice of Intent
- *NOT* – Notice of Termination
- *SWPPP* – Storm Water Pollution Prevention Plan
- *BMP* – Best Management Practice
- “*Construction Activity*” – land disturbance including clearing, grading, excavating
- *QP* – Qualified Professional
- *PCP*- Post Construction Plan

# Why Do We Have To Do This?

- Sediment is one of the leading water resource pollutants nationwide
- Construction site sediment runoff is 10x to 20x more than ag land
- Other construction site wastes (cement, paint, fuel, oil, etc.) are also problems
- It's the law . . . .



# Why All The Fuss About Construction Activities?

- Basic Goal of the Program:
  - Prevent erosion during construction
- Two types of practices you can follow:
  - *Erosion Prevention* – prevents soil from being dislodged
  - *Sediment Control* – captures soil after its dislodged but before it leaves the site

# RULE 5 and Rule 13

- You are all familiar with Rule 5 that is governed by the Indiana Dept. of Environmental Management (IDEM)
- Through the federally mandated Rule 13 program, equivalent powers in regards to Rule 5 have now been given to local entities

# Entities Involved

- The entities involved are:
  - Floyd County, New Albany and Georgetown
- Areas containing a population of 1,000 persons per sq. mile according to the last census bureau count

# What Does this Mean?

- Floyd County has adopted an ordinance governing construction activities in the county. This includes:
  - construction,
  - clearing practices,
  - And more

# What Projects are Affected?

- Just as with Rule 5, projects disturbing one acre or more must comply the requirements.
- For projects less than one acre, there may still be minimal requirements that need to be met.

# Ordinance Coverage

- If your project started before the construction ordinance enactment date, then your project still falls under Rule 5.

# Staying in Compliance 1: Planning Stages (greater than or equal to one acre)

- Develop a Construction Plan, including the Stormwater Pollution Prevention Plan and Post Construction Plan
- Evaluate the site, review the rule requirements, utilize the *Indiana Stormwater Quality Manual* (formerly the *Indiana Handbook for Erosion Control in Developing Areas*) for guidance in developing the plan.

# Planning Stages

- **Engineers:** Follow format in Construction Site Runoff Ordinance for both narrative and drawings when submitting application for (may not need each one depending on entity):
  - Perimeter Control Plan: Perimeter Outfall Permit
  - SWPPP: Stormwater Quality Mgmt Permit
  - Grading Plan: Grading Permit
  - Construction Plan
  - Drainage Plan

# What is a...?

- *Perimeter Control Plan*: Includes measures to prevent sediment from leaving the site prior to land disturbing activities. Obtaining the permit does not give permission to permit holder to break ground/disturb soil at the site.
- *Stormwater Quality Pollution Prevention Plan*: Addresses possible pollutants at the construction site and how they are handled

# Staying in Compliance 2: Plan Submittal

- Submit the Construction plan to the reviewing authority for review
- These plans should be reviewed within 30 days

# Staying in Compliance 3: Plan Approval

- Modifications may be requested before it is approved
- Modification of plans requires resubmittal to reviewing authorities

# Staying in Compliance 4: NOI

- Submit your NOI to your entity, local SWCD, and IDEM
- Must include:
  - Proof of Publication
  - Proof of Construction Plan Approval
  - Permit filing fee (if applicable)
- NOI must be filed 48 hours prior to the disturbance of land

# Just So You Know...

- The person that signs the NOI is wholly responsible for the implementation and maintenance of all the plans originally approved prior to construction
- This means that this person is liable for the actions of everyone

# Scenarios

- Scenario #1: Jared purchases a lot to build a home on Kevin's development site. Kevin signed the NOI for the site. Kevin is responsible for Jared's lot erosion and sediment control

# Scenarios

- Scenario #2: Steve's electric company is contracted to install electrical lines on 5 lots in Kevin's development. Steve's employees run over 20 yards of silt fence. Kevin signed the NOI for the site. Kevin is responsible for ensuring the silt fence is fixed and properly maintained.

# Scenarios

- Scenario #3: Jared's concrete company is hired to pour foundations. His driver pours the washout from the truck outside the designated concrete washout area. Kevin signed the NOI for the site. Kevin is responsible for ensuring that pollutants are properly handled at the site.

# Scenarios Bottom Line

- Educate your subs

# Staying in Compliance 5: Construction Activities

- **Developers:** You can now start...
- You must first:
  - Implement perimeter control plan
  - Get site acceptance of perimeter control
    - Perimeter controls installed
    - Give Floyd County SWCD representative two business (2) days “lead time”
  - Begin land disturbance

# Staying in Compliance 6: Implement Plan

- You must now implement and maintain your construction plan throughout the entire construction process:
  - Erosion control plan (includes perimeter control plan),
  - Stormwater quality pollution prevention plan

# Staying in Compliance 7: Inspections

- 2 different types of inspections are involved
  - Oversight Inspections
    - Conducted on a routine basis
  - Self Inspections
    - Permittee Performed Inspections carried out by a “qualified professional”

# Inspections Continued

- Currently no training program is in place to register “qualified professionals”
  - Carry out maintenance inspections as per Rule 5
  - Document them thoroughly (keep a log)
  - These will be transferable when this portion of the program goes into effect

# Still More Inspections

- Permittee self inspections shall be performed:
  - Every 7 days and
  - Within 24 hours of a 1/4" rain event
- These inspections provide feedback on the effectiveness of the grading and stormwater pollution prevention plans
- Documentation is required

# Staying in Compliance 8: Maintenance

- Implement to specification
- Recognize Cause & Failure indicators
- Troubleshoot BMPs
- Adapt & Repair

# Staying in Compliance 9: Enforcement

- Notice of non-compliance
- Notice of Violations
- Stop Work Orders
  - Revoke Permit
  - Consent Orders
  - Fines
  - Court

# Top Reasons for Fines Under Phase II Regulations

- Improper or lack of best management practice (BMP) maintenance
- Incomplete or no NPDES permit or Storm Water Pollution Prevention Plan (SWPPP)
- Incomplete or no inspections
- Not implementing the SWPPP as described in the plan or altering the plan
- Incomplete or no BMPs
- Improper installation of BMPs
- Public complaints
- Continued discharges after warnings and citations
- Lack of response during/after a release
- Failure to submit a Notice of Intent prior to construction and other subsequent paperwork
- A contractor not being signed on the Notice of Intent but performing work affecting erosion
- Starting work prior to obtaining a permit
- Failure to maintain monitoring logs or falsification of logs
- Discharge into a fish bearing stream

# Staying in Compliance 10: Termination of Project

- Project site owner will submit a NOT letter to the entity and IDEM once the following conditions have been met
- The criteria for obtaining a NOT are found in the ordinances
- The NOT releases you from further oversight and inspections

# For Sites Less Than One Acre

- There may still be minimal requirements that need to be met, check each ordinance for specifics

# For Any Size Site (IDDE)

- Land disturbing activities and construction activities may also fall under each entities Illicit Discharge Detection and Elimination (IDDE) Ordinances
- Covers not only sediment, but also other sources of pollutants associated with development
- This ordinance also has its own set of applicable violations and fines associated with noncompliance

# Resources

- *Indiana Stormwater Quality Manual* (formerly the *Indiana Handbook for Erosion Control in Developing Areas*)
- [www.CICACENTER.org](http://www.CICACENTER.org)
- MS4 Stormwater Coordinators
- Soil & Water Conservation District Staff
- Ordinances

# CICACenter.org

Address  <http://www.cicacenter.org/stormwater.html>



The navigation menu features a background image of a construction site with a 'SURVEY' sign. It includes a top row of buttons: Home, What's New, Compliance Summary, Stormwater, and C&D Debris. A central banner reads 'Construction Industry Compliance Assistance' in yellow text on a blue background. Below this is another row of buttons: Hazardous/ Toxic Waste, Air, Wetlands / Water Bodies, Endangered Species, and Green Building. At the bottom, a purple-bordered box contains a list of links: [What you need to know](#), [Regulations/Permits](#), [SWPPP](#), [BMPs](#), [TMDL](#), and [Other Resources](#).

## Stormwater: What You Need to Know

Stormwater runoff from construction activities can have a significant impact on water quality by contributing sediment and other pollutants to creeks, streams, lakes, etc. Under the Federal Clean Water Act, The National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating sources of pollution that discharge into waters of the United States. Federal regulations relating to the NPDES [Stormwater Permit Program](#) require operators of certain sized construction projects to obtain authorization to discharge stormwater under an National Pollutant Discharge Elimination System (NPDES) construction stormwater permit:

- Phase I Stormwater regulations published in 1990 required construction activities that disturbed five or more acres of land to obtain NPDES permit coverage.
- Phase II Stormwater regulations, which became effective March 2003, expanded the requirement to obtain permit coverage to include discharges of stormwater from construction sites between 1 and 5 acres. [Find Your State Phase II Forms and Instructions](#)

Although these are federal rules, they are implemented by state environmental agencies (except for Massachusetts, New Mexico, Alaska, Idaho and New Hampshire where EPA retains authority). To obtain forms and more information on application procedures and permit requirements for construction projects in your state, use the CICA [Stormwater Resource Locator](#) (SWRL).

As the federal regulations specify, state permits may allow for two types of waivers for the Phase II construction sites (those disturbing between one and five acres). The first waiver is available when the

# Entity Contacts

- If you have any questions regarding regulations, or specifics relating to Phase II in your site location:
- I can be contacted at the Floyd County Soil and Water Conservation District
- Phone: 812-945-9936
- Email: [kfeder@floydcounty.in.gov](mailto:kfeder@floydcounty.in.gov)

Questions?