



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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OFFICE OF  
WATER

**Construction and Development Effluent Limitations Guidelines  
Report on Status of Rulemaking – Due August 1, 2009**

Pursuant to the Permanent Injunction and Judgment in *Natural Resources Defense Council, et al. v. U.S. Environmental Protection Agency*, CV 04-8307-GHK (C.D. Cal.), the U.S. Environmental Protection Agency (“EPA” or “the Agency”) provides this status report concerning its actions during the period of April 2009 through July 2009 to take final action with respect to effluent limitations guidelines and new source performance standards for the construction and development industry.

1. During this reporting period, EPA continued to meet with stakeholders to discuss the proposed regulation. Some of the stakeholders expressed concerns about the potential costs of EPA’s proposed regulation and the applicability of numeric effluent limitations to linear projects. Other stakeholders believe that the proposed regulation does not do enough to control stormwater discharges associated with construction activity.
  - a. EPA met with representatives of Spectra Energy on April 22 and June 16, 2009.
  - b. EPA met with representatives of the National Association of Home Builders on April 23 and June 1, 2009.
  - c. EPA met with representatives of the Utility Water Action Group on May 7, 2009.

- d. EPA met with representatives of Natural Resources Defense Council and the Waterkeeper Alliance on May 5 and July 10, 2009.
2. EPA has continued to update the models used to support the rulemaking, including:
  - a. Revising the loadings model to operate at the watershed-level in order to provide a more accurate estimate of the potential pollutant load reductions;
  - b. Updating economics models with more recent data and updating the method of assigning model project costs to firms;
  - c. Revising the cost model to address projects of varying duration in order to increase of the accuracy of the cost estimates.
3. EPA has begun to brief senior management regarding options for the final rule.
4. The preceding paragraphs describe EPA's progress in meeting the December 1, 2009 milestone deadline. The proposed rule was published on November 28, 2008 and the comment period closed on February 26, 2009. The Agency has met all project milestones required to be completed to date.

The undersigned, Mary T. Smith, is Director of the Engineering and Analysis Division of EPA's Office of Water. The Engineering and Analysis Division has primary responsibility for discharging EPA's duties under this court order.



Mary T. Smith, Director  
Engineering and Analysis Division  
U.S. Environmental Protection Agency