With recent Ninth Circuit Court of Appeals decision requiring oil and gas producers to comply with the Clean Water Act, the oil and gas industry must now follow National Pollutant Discharge Elimination System (NPDES) requirements including construction storm water permitting. Our presentation will discuss the impacts of regulations required by the State of California Construction General Permit (CGP) for storm water runoff associated with oil and gas exploration and production activities that may cause storm water runoff and effluent discharges into surface waters. As of July 1, 2010, these regulations apply to all construction projects that disturb soil greater than one acre associated with exploration and production, including drill site preparation, the movement and placement of drilling equipment, including access roads and pipeline installation. CGP storm water monitoring requirements are based on Risk Levels (1, 2, & 3) for traditional sites such as drill pads and roads, and Type Levels (1, 2 &3) for Linear Underground/Above Ground (LUP’s) pipelines and overhead utilities. Monitoring may include field pH and turbidity measurements, suspended sediment, concentration, and non-visual pollutants three times per day during rain events. Numeric Action Levels and Numeric Effluent Limits have been set for pH and turbidity. Required Best Management Practices (BMP’s) and good housekeeping practices at drill sites will be discussed that could aid in maintaining the runoff from pre-to post construction condition. As of September 1, 2011, new professional certifications are required to prepare the construction project Storm Water Pollution Prevention Plan (SWPPP) and associated activities. The SWPPP writer must be a trained Qualified SWPPP Developer (QSD) and site inspections must be conducted by a Qualified SWPPP Practitioner (QSP). These requirements and strategies for successful oil and gas operations necessary to limit soil erosion and storm water runoff will be discussed.
New California Storm Water Regulations and the Impact on Oil and Gas Exploration and Development

BACKGROUND

- The 2008 United States Court of Appeals Ninth Circuit (9th Cir. 2008) 526 F.3d 591 (BRSC v. U.S. EPA) determined that oil and gas construction activities discharging storm water contaminated only with sediment are no longer exempt from the National Pollutant Discharge Elimination System (NPDES) program.
- If a storm water discharge of sediment from these activities has the potential to contribute to a violation of a water quality standard, the operator must apply for an NPDES permit, or else be in violation of the Clean Water Act.
- NPDES permits, as applicable, are subject to the General Construction Storm Water Permit and operators must file a Notice of Intent for coverage under this General Permit.

ABSTRACT

With recent Ninth Circuit Court of Appeals decision requiring all oil and gas producers to comply with the Clean Water Act, the oil and gas industry must now follow National Pollutant Discharge Elimination System (NPDES) requirements including construction storm water permitting. This poster describes the implications of requiring the use of California Construction General Permit (CGP) for storm water runoff associated with oil and gas exploration and production activities that may cause storm water runoff and effluent discharges into surface waters. As of July 1, 2010, all new operations must be GOVY (General Oil and Gas Underground Storage) projects that discharge less than one acre per year associated with exploration and production. This includes drilling, well completion, the movement and placement of drilling equipment, including access roads and pipeline installation. The CGP storm water permitting requirements are based on risk factors (1, 2, 3 & 4) for the location of the well site and storm water runoff from the site. Notice of Intent Action Levels have been set to address the risk of lost and approved permit applications. The CGP permits required by the California Division of Oil, Gas and Geothermal Resources (DOGGR) and the oil and gas operators must be conducted by a Qualified SWPPP Practitioner (QSWP). These requirements and strategies for successful oil and gas operations are necessary to prevent soil erosion and storm water runoff.

STORM WATER PERMIT EXCLUSIONS

A storm water waiver may apply to your site!

- Not all sites are subject to regulatory requirement under the California General Storm Water Permit.
- Construction activities that disturb less than one acre of land surface, unless part of a larger common plan of development, are not covered under this permit.
- EPW Storm Water Photo Image Runoff provides the option for a Small Construction Construction Runoff Erosion Waiver. The waiver applies to small construction sites between one and five acres, and allows permitting authorities to waive the requirements for those sites that do not have adverse soil quality impacts.
- Dischargers eligible for this waiver are exempt from the California Construction General Permit.
- In order to obtain the waiver, the discharger must certify to the State Water Board that small construction site activity will occur only when the project would otherwise result in a runoff of less than one acre per year. "Factor A" in the Revised Universal Soil Loss Equation (RUSLE) is determined on project design via statistical analysis for the site.
- Linear underground/roadway projects (LUPs) are similar to risk levels based on threat to receiving water or sediment risk. Projects activities include not limited to any construction or excavation activity for access roads, pipelines for oil and natural gas, cables or electrical transmission of power lines etc.

IMPLICATIONS

- Documentation
  - Legally responsible person must file a Notice of Intent to Discharge prior to any earth moving activities.
  - Legally responsible person must file a Notice of Termination within 90 days after completion of drilling activities.
- Operator must file a Storm Water Pollution Prevention Plan (SWPPP) 30 days prior to any earth moving activities.
- Operator must file a Time Event Action Plan (REAP) 48 hours prior to any hydraulic fracturing event.
- All permit required documents (PRDs) must be filed electronically on the State Water Resources Control Board Storm Water Multi-Application Reporting and Tracking System (SMARTS).

Minimum BMP Requirements

- Good Site Management “Housekeeping”
  - construction materials
  - waste management
  - vehicle storage and maintenance
  - landscape materials
  - potential pollutants
- Non-Storm Water Management
  - Erosion Control
  - Sediment Controls
  - Run-on and Runoff Controls
  - Inspection, Maintenance and Repair

CAGSA BMP Handbook - www.cagshandbook.com

MONITORING

- Numeric Action Levels (NALs) – An exceedance of an NAL triggers additional monitoring, investigation, and reporting requirements.

Effluent Limits

- Numeric Effluent Limits (NELs) – An exceedance of NELs is considered a permit violation. This General Permit contains NELs for Risk Level 3 projects (under litigation).

New Training Requirements

- SWPPP Practitioners must be supervised by a “ Qualified SWPPP Developers” or OSPs as of September 1, 2011.
  - Professional Engineer (P.E.), Professional Geologist (P.G.), Registered Landscape Architect, Professional Hydrologist, Certified Professional Erosion and Sediment Control, Certified Professional Storm Water Quality
  - Staff implementing SWPPPs (including visual inspections) must be “Qualified SWPPP Practitioners” or OSPs, only effective September 1, 2011
  - Certified Inspector of Sediment and Erosion Control, Certified Erosion, Sediment, and Storm Water Inspector