

**Presentation:** "Clean Water Act Enforcement"

**Speaker:** Mr. Ken Greenberg, EPA Region 9, CWA Compliance Office

Mr. Greenberg is an Environmental Engineer in EPA Region 9's CWA Compliance Office, Water Division. He earned a masters degree in civil engineering from Cornell University and is a professional civil engineer in California. Since 1977, Mr. Greenberg has worked in a variety of programs at EPA Region 9 Water Division, including Drinking Water, NPDES Permits, and NPDES Compliance and Enforcement. Mr. Greenberg is a senior engineer responsible for promoting CWA compliance, conducting investigations, and developing enforcement cases.

**Handout:** "USEPA Perspective: Clean Water Act Compliance Issues at Department of Defense Facilities" (Electronic copy not available)

**Notes:**

Mr. Greenberg discussed the requirements of new and existing regulations in the CWA.

**Discussion:**

Regarding	Questions/Remarks	Response*
Jurisdictional compliance	It is a challenge for large installations, like Pendleton with four different counties, etc., to comply with Phase II storm water requirements. It's difficult for 900-square-mile "facilities" to be permitted as a single entity.	Mr. Greenberg deferred this question to Eugene Bromley, Storm Water Coordinator, EPA Region 9, who will present on Thursday. Mr. Greenberg indicated that some details still need to be worked out. The State of California does not know how many military bases will be affected by the Phase II requirements. Mr. Greenberg recommended that military personnel join the MS4 task forces to help resolve questions about compliance for military bases.
Data basis	What is the source of the population data used to determine urbanized areas?	US Census data are used to determine urbanized areas. Presumably, they are using the permanent population data and not the area's work force.

Regarding	Questions/Remarks	Response*
Citizen lawsuits	Do you anticipate an increase in citizen lawsuits with the new CWA regulations?	Yes, not only regarding the storm water program but also wastewater collection systems.
Citizen lawsuits	What do you think will be the impact of citizen suits?	Citizen suits are an attention-getter. They get the attention of the regulated industry; if one facility is sued, the others hear about. It affects the regulators, too, so they ramp up their inspection efforts.
Citizen lawsuits	Does the group that files the lawsuit receive a percentage of the judgment rendered?	Typically in citizen lawsuits, they can ask for attorney-fee reimbursement. There are mixed legal judgments about how much these groups can be reimbursed.
Citizen lawsuits, EPA involvement	<p>(1)With examples like the Bureau of Land Management that has 80-85% of staff responding to lawsuits, do you expect EPA to be involved heavily in lawsuits?</p> <p>(2)States are not adequately staffed to respond to suits. For example, Arizona was sued 6-7 years ago and had 5 years to come into compliance. However, the State did not comply within the required period, so the period was extended. Phase 2 requirements will likely pose an additional challenge.</p>	<p>(1)EPA does not usually get extensively involved unless it is investigating the facilities at the same time that the lawsuit is filed.</p> <p>(2)Mr. Greenberg was not familiar with that particular suit in Arizona, but the States have been notified of the requirements in order to adequately staff their programs, especially the storm water program. States have responded by increasing their staff and receiving additional funding from EPA.</p>
Sanitary sewage overflow fees	Have the daily fines gone up from \$25,000/day?	Mr. Greenberg stated that the fines are now close to \$30,000/day. However, the fines do not apply to military bases.

Regarding	Questions/Remarks	Response*
Permits for satellite collection systems	When will I know if have to include satellite collection systems in our NPDES application?	Regardless of what happens with this regulation, looking at collection systems has been a priority for EPA. EPA has been requesting spill information for several years. Spills are a violation of the CWA. Enforcement actions are intended to improve collection systems. The State of California is starting to put similar language into their permits being issued right now.
Permits for municipal collection systems	Will the proposed rule distinguish between sewer treatment and water reuse facilities?	Water reuse facilities do not necessarily need NPDES permits. However, this issue has not been resolved.
Compliance at DoD Facilities	Are military bases scrutinized more closely than the rest of the regulated community?	No, the standards are the same.