

MEMORANDUM

DATE: November 4, 2002

TO: District Design Engineers
District Consultant Project Management Engineers
District Construction Engineers

FROM: Brian Blanchard, State Roadway Design Engineer
Ananth Prasad, State Construction Engineer

COPIES: Freddie Simmons, Bob Greer, Jim Mills, Ken Weldon, Rick Renna, Frank Sullivan, Bill Albaugh, Duane Brautigam, Sharon Holmes, and Donna Pope

SUBJECT: National Pollutant Discharge Elimination System (NPDES) Construction General Permit for Large and Small Construction Activities

A Storm Water Pollution Prevention Plan (SWPPP) must be developed as part of the contract plans for each construction project site to satisfy the requirements of the NPDES. Effective March 10, 2003, the threshold values for developing a SWPPP changes. Under the provisions of the Phase II Rule we have 30 days from the effective date of the Rule to be in compliance. A Notice Of Intent (NOI) and SWPPP must be prepared for all projects that will disturb equal to or greater than one (1) acre of land that discharge into waters of the United States, if construction will be occurring on or after April 10, 2003

Historically, construction activities have been divided into two categories. Large Area Construction Activities were defined as equal to five (5) or more acres of total land area and Small Area Construction Activities were defined as equal to one (1) or more acres of total land area, but less than or equal to five (5) acres, both of which must discharge into waters of the United States. Until recently the requirement to produce an NOI or SWPPP applied only to Large Area Construction Activities. This distinction allowed minor disturbances such as maintenance activities or permitted utility construction to proceed under the Small Area Construction Activity distinction without having to develop a NOI or SWPPP. This distinction will no longer exist effective March 10, 2003 and a NOI and SWPPP will be required even if one or more acres of total land area is disturbed.

The previous directive on this subject stated that only those NPDES Phase II jobs beginning with the December 2002 letting would require a SWPPP if one or more acres is disturbed. The directive did not refer to projects that are already underway. The Florida Department Of Environmental Protection (FDEP) has now informed us that the new threshold values also apply to ongoing projects. The FDEP sent official written notification in August 2002 to Donna Pope, NPDES and Environmental Permit Coordinator, who distributed the proposed rule change with the March 10, 2003 implementation date for FDOT comments. Unfortunately, no one interpreted the Rule revision to apply to on-going projects during the comment period. Donna Pope contacted the FDEP and expressed our concerns about the cost consequences associated with the

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numerous supplemental agreements this Rule will require. We have been informed by FDEP that a generic SWPPP can be utilized for the on-going construction projects. Each project must file individually for the NOI and pay the required fee. The generic plan can be tailored for the specific project.

Construction personnel are directed to negotiate with the contractor any cost consequences and process a supplemental agreement to incorporate the SWPPP for contracts affected by this Rule and be in compliance with the SWPPP for Small Area Construction activities occurring on or after April 10, 2003.

If you have any further questions, please contact Brian Blanchard, Ananth Prasad or Donna Pope.

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