



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

AUG 16 2007

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Use of Green Infrastructure in NPDES Permits and Enforcement

TO: Water Division Directors, Regions 1 – 10  
Regional Counsel/Enforcement Coordinators, Regions 1 - 10  
State NPDES Directors

FROM: Linda Boornazian, Director *Linda Boornazian*  
Water Permits Division (MC 4203M)

Mark Pollins, Director *Kate Anderson*  
Water Enforcement Division (MC 2243A)

Administrator Stephen Johnson entered into an agreement on April 19, 2007, with State, environmental and wastewater utility groups to formalize the use of green infrastructure<sup>1</sup> approaches.<sup>2</sup> As part of the agreement, the Agency committed to develop “memoranda ... that would explain how regulatory and enforcement officials should evaluate and provide appropriate credit for the use of green infrastructure in meeting Clean Water Act requirements.” One frequently encountered question is how green infrastructure practices fit into existing regulatory programs.

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<sup>1</sup> Green Infrastructure uses natural or engineered systems – such as green roofs, rain gardens and permeable pavement – that mimic natural processes and direct stormwater to areas where it can be infiltrated, evapotranspired or re-used. Green infrastructure can provide many environmental benefits: stormwater control, air quality improvements, urban heat island mitigation, energy demand reductions, carbon sequestration, headwaters protection, etc.

<sup>2</sup> Green Infrastructure Statement of Intent,  
[http://www.epa.gov/npdes/pubs/gi\\_intentstatement.pdf](http://www.epa.gov/npdes/pubs/gi_intentstatement.pdf).

In developing permit requirements<sup>3</sup>, permitting authorities may structure their permits, as well as guidance or criteria for stormwater plans and CSO long-term control plans, to encourage permittees to utilize green infrastructure approaches, where appropriate, in lieu of or in addition to more traditional controls.

EPA will also consider the feasibility of the use of green infrastructure as a water pollution control technology in its enforcement activities, and encourages state authorities to do likewise.

We are working on more specific guidance to help facilitate implementing this message -- e.g., model permit and enforcement consent decree language, and we are compiling examples of where green infrastructure has been incorporated into permits and enforcement mechanisms in an appropriate and effective manner.

If you have examples of permits, CSO long term control plans or settlements that utilize green infrastructure, or have any questions on this matter, please contact either of us, or have your staff contact Jenny Molloy of Water Permits Division at molloy.jennifer@epa.gov, 202 564-1939 or Gary Hudiburgh of Water Enforcement Division at hudiburgh.gary@epa.gov, 202 564-0626.

cc: Steven Neugeboren, Office of General Counsel, (MC 2355A)

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<sup>3</sup> NPDES permits require compliance with effluent limitations developed to meet technology-based requirements, as well as more stringent water quality-based requirements; the permits also contain general and special conditions, including monitoring and reporting. The discharger makes the decision on how to achieve compliance with limitations and conditions contained in an NPDES permit, and may decide to make use of green infrastructure to comply with NPDES permit terms, limitations and conditions. These permits must meet the requirements of CWA §§ 301, 302, 306, 307, 308, and 313. EPA has issued regulations to implement the NPDES program, 40 CFR Parts 122 – 125, and guidance and policy.