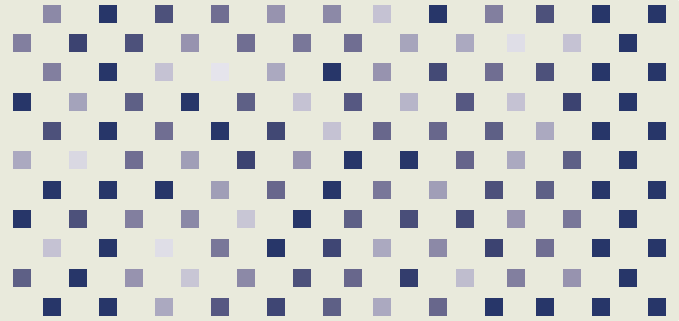




Laurie Demers



Shirley Morrow



## Regulatory Responsibilities: Present & Future

Information and resources for keeping compliant

As the U.S. Environmental Protection Agency (EPA) increasingly enforces National Pollutant Discharge Elimination System Phase II requirements, it is up to municipalities and storm water professionals to learn regulations and implement solutions accordingly. *Storm Water Solutions'* Managing Editor Caitlin Cunningham turned to Stormwater USA's Laurie Demers, president and managing director, and Shirley Morrow, vice president and director of technical content, for input regarding compliance challenges and resources.

**Caitlin Cunningham:** *What led you to recognize the need for and establish an online storm water compliance training/certification company?*

**Laurie Demers:** Mostly it was supply and demand. The Phase II regulations have come into effect and there's a great number of general contractors and municipalities who are not in compliance with state and federal construction general permits as far as doing inspections, maintaining BMPs on site and taking care of storm water compliance in general on construction sites.

We noticed access to training is very scarce, so as enforcement of the regulations in place increased, people started scrambling for it. Folks were having to take two, three, four days off work and often fly across the country; this wasn't very efficient or practical. Most states, companies and contractors are out of compliance—a lot of it has to do with education and access to education.

**Cunningham:** *What are the most significant compliance challenges storm water professionals have faced this past year?*

**Demers:** I think it's just a continued understanding of the federal and their states' permits. It continues to be awareness of what they're supposed to do, what's required of them—just general basic knowledge.

So we still drive around the country and see construction

sites where there's no attention paid to storm water pollution prevention at all. You can sense that sometimes professionals know they're supposed to do something but don't install BMPs correctly, so they're not implementing what the general permits require them to do and they're not maintaining them. I think it continues to be an issue where people are not applying for coverage under their state or the federal construction general permit properly or at all.

**Shirley Morrow:** I would say a lack of consistency in the education that's out there. I've found over the years that people will do the right thing if they know what that is, but there's a lack of good, consistent education out there.

**Cunningham:** *Do you see any new difficulties emerging?*

**Demers:** One continued difficulty is the Phase II municipalities—those with a population density over 10,000—are required to have a storm water ordinance.

**Morrow:** The EPA has a six-point storm water plan that the cities have to put together. One point of that is their construction program. Phase II has really disrupted this industry, almost in a catastrophic sense, because there's a lot of municipalities and states that can't get their arms around the regulations they're supposed to be upholding. Everybody is out there doing different things; they all interpret the regulations differently. It's really hard to educate people on what to do on a very local level.

It's so different—you can walk across the street and be in a different ordinance sector where rules are entirely different.

**Demers:** All of these communities, since they interpret things slightly differently, have to recreate the wheel every time. There's no standardization. At Stormwater USA, what we've done, since we've worked nationally, is create standardization, especially through our library of resources.

**Cunningham:** *Is there any end in sight?*

**Morrow:** No, as a matter of fact, what's happening now—Phase II went into effect in 2003—is the permits that were issued under Phase II are now over five years old. EPA is going around to the areas and assessing the different programs to see if they have a plan in place, are implementing the plan and if the plan meets all requirements.

To be honest, this is just the beginning because now you're going to start getting into EPA enforcing Phase II on states and municipalities. If they're not doing it right or don't have something in place, you're going to see them scramble to get up to speed and compliant.

**Cunningham:** *Are there any regulatory-related questions or criticisms you consistently hear from clients?*

**Morrow:** The fact that everything is inconsistent. When you go from town to town, state to state, everything is different.

**Demers:** It's confusing and inconsistent; yes, I would say that's a very standard complaint.

**Cunningham:** *How might earning storm water certification help an individual address these types of issues?*

**Morrow:** One of the core elements of the federal permit and all state permits is that all people doing these inspections be what is termed 'qualified personnel.' Of course EPA has a very broad definition of what qualified personnel is, and in our industry right now, whether it is due to a lawsuit or some of these violations,

people are trying to define qualified personnel better. What you're seeing around the country is a lot of training and certification programs which, in essence, give you that defined qualified personnel.

... The difference in our program, which I think is extremely helpful, is we don't have any prerequisites to take our training. You don't have to have any kind of degree. We have no limitations on who becomes certified, and that's always been a limiting factor up to the formation of Stormwater USA.

**Cunningham:** *What does becoming a Certified Compliance Inspector of Stormwater (CCIS) entail?*

**Morrow:** Regulations require qualified personnel to do these inspections, so this training has six different modules and covers the basics of erosion control, the federal permit, erosion and sediment control devices, pollution prevention and controls. It's a well-rounded program and also includes how to do inspections. This provides the education and experience people need to say they are qualified to do inspections on construction sites. And it doesn't really matter who the inspector is; whether you're a municipal inspector or a general contractor doing self-audits, it covers all those bases.

**Cunningham:** *And a Certified Preparer of Storm Water Pollution Prevention Plans (CPSWPPP)?*

**Morrow:** One of the things I learned having previously worked at Wal-Mart is that companies—and I hate to pigeonhole engineering firms, but it is primarily them who produce storm water pollution prevention plans (SWPPPs)—lack knowledge in what is a compliant SWPPP. There's nobody out there teaching proper preparation of these plans and what a compliant plan is. Whether inspecting or writing it, everybody should know what is a compliant storm water plan.

Our CPSWPPP certification provides all the knowledge an inspector needs. You also need to know what goes into the plan to inspect the plan. But then it also goes into all the details of the design elements of the different controls,

plus a lot more emphasis on proper paperwork. We provide forms and guidelines just to keep the paperwork in order; it's one of the things inspected quite frequently and shown to be in violation. Paperwork, though, is probably the easiest thing to keep in compliance if you know what you're supposed to do.

**Cunningham:** *What resources do you suggest storm water professionals utilize to keep up to date and compliant?*

**Demers:** I would say most importantly their state's general permit and standardized forms and guidelines we provide them—inspection reports, spill reports, subcontractor certification statements ...

**Morrow:** SWPPP certification statements, how to put your storm water notebook together—the different tabs, how to organize your plan—and the soil activity/stabilization log. One of the permit requirements is to track when you start and end any dirt-moving activities or stabilization on site, and yet there's no consistent form out there for people to do that with, so we've provided one.

**Cunningham:** *Is there anything else on the horizon our readers should know about?*

**Demers:** The EPA has increased its enforcement budget for this year and next year. With the slowing of the construction industry and fewer projects under construction, the probability you'll see enforcement increases as more financial resources are spread over fewer sites.

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