

# Weathering the storm



**EPA regulations change the rules contractors must follow when digging, creating unique opportunities for rental businesses**

**C**onstruction excavation and earthmoving recently got a bit more complicated as Phase II of EPA's Storm Water Final Rule went into effect this past spring. The change creates potential for rental dealers who specialize in construction equipment to capitalize on a unique opportunity.

While the subject seems new to some, Phase II originated from a 1992 court decision handed down in a lawsuit against the EPA for not adequately protecting bodies of water from storm water discharges running off construction sites. The previous 1990 creation of Phase I, in which EPA's Office of Water established the National Pollutant Discharge Elimination System, also had stemmed from a lawsuit aimed to producing the agency into tighter enforcement of the Clean Water Act.

While Phase I applied to construction work disturbing five acres or more, Phase II narrows it down to projects disturbing land of one to five acres, making it a concern for smaller contractors. In addition, individual states, counties and municipalities can all apply additional restrictions on top of EPA's baseline rule.

The basic requirements of the rule require contractors to:

1. Submit a Notice of Intent that includes general information and a certi-

fication that the construction activity will not impact endangered or threatened species.

2. Develop and implement a Storm Water Pollution Prevention Plan with appropriate best management practices to minimize the discharge of pollutants from the site.

3. Submit a Notice of Termination when final stabilization of the site has been achieved as defined in the permit or when another operator has assumed control of the site.

Maximum penalties are \$27,500 per day, per violation, although enforcement isn't expected to be stringent, as EPA will emphasize compliance assistance for the first few years.

## Effects on the rental industry

Larger contractors are familiar with erosion control techniques, but smaller firms might need assistance and that's where rental businesses can come to the rescue. Smaller contractors most likely won't have the ability to buy all the necessary erosion control equipment needed to meet the new regulations, and they're also likely to need guidance in terms of what exactly is needed to comply.

According to Marc Bowers, vice presi-

dent of marketing at Finn Corp., makers of erosion control equipment such as straw blowers and hydroseeders, rental dealers who go out and pursue contractors, explain the EPA regulations and what it means to them can stand to earn some high margin business.

Bowers adds that it isn't as simple as adding erosion control equipment to your rental fleet. In order to take advantage of the situation, rental dealers need to poise themselves as the "go-to" solutions provider for small contractors.

Rental businesses can establish themselves as the solutions provider for erosion control equipment, Bowers suggests, by first studying the rule and its implications and then putting together a small information packet for customers. The main thing, he says, is to get the word out that you have erosion control equipment available and that you are there to assist your customers.

For more information about the rule, contact the U.S. EPA Office of Wastewater Management at (202) 564-9545 or check out the Storm Water Phase II Final Rule Fact Sheet Series at [www.epa.gov/npds/regulation/phase2.pdf](http://www.epa.gov/npds/regulation/phase2.pdf). **RPN**

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